

Superintendent of Financial Services

Regarding the life insurance agent licence of
Mr. Barry Hargadon

AND the Insurance Act, R.S.O. 1990, c.1.8, as amended,
particularly subsections 393(9) – 393(11)

DECISION

Introduction:

A Notice of Opportunity for Hearing dated September 22, 2009 (the Notice) informed Mr. Hargadon of allegations against him and the opportunity for a hearing before an Advisory Board. The Notice advised Mr. Hargadon that if a hearing was not requested, the Superintendent would make a decision based on information in the possession of the Financial Services Commission of Ontario (the Commission). Mr. Hargadon was also advised that such decision could include suspension or revocation of his licence as a life insurance agent.

I have received an affidavit from [REDACTED] legal counsel at the Commission that the Notice was served by registered mail and that Canada Post confirms successful delivery of the Notice. The affidavit further notes that no request for a hearing has been received. I am satisfied that the Notice was properly served in accordance with the provisions of the Insurance Act.

A copy of the allegation is attached to this Decision.

The Evidence:

Since Mr. Hargadon has not requested a hearing, the evidence of Commission staff in the particulars attached to the Notice is uncontroverted.

The evidence can be summarized as follows. The Commission selected Mr. Hargadon as part of a routine audit of compliance with the requirement to have errors and omissions insurance. The Commission made several attempts to contact him by mail, registered mail and by email. Canada Post confirmed receipt of the request sent by registered mail. However no response was received from Mr. Hargadon.

Findings of Fact

I find the allegation that Mr. Hargadon has failed to furnish information requested by the Superintendent in respect of his errors and omissions insurance to be established. The reason for this finding is the evidence that Mr. Hargadon failed to respond to the several requests from the Commission for evidence of his errors and omissions insurance.

In the absence of testimony by Mr. Hargadon, I am not aware of any explanations for his behaviour or mitigating circumstances.

Decision:

I have found that Mr. Hargadon has failed to furnish information requested by the Superintendent in respect of his errors and omission insurance.

Errors and omissions insurance is required by Regulation 347/04. Errors and omissions insurance is necessary to protect consumers from negligence by insurance agents. Insurance agents without errors and omissions insurance may not have sufficient assets to indemnify policy holders or applicants for insurance from such losses. Accordingly insurance agents that do not have errors and omissions insurance cannot be allowed to be engaged in the business of insurance.

In this case, Mr. Hargadon would not respond to the Commission on this matter. Insurance agents must be governable and amenable to being regulated. The Insurance Act imposes a duty on licensed persons to facilitate an examination. Responding to information requests is an attribute of a person suitable to be an insurance agent.

Since Mr. Hargadon has not requested a hearing, there are no explanations for his behaviour, nor is there any demonstrated interest in maintaining his licence as an insurance agent.

Accordingly considering the lack of suitability as demonstrated by the failure to facilitate an examination about a fundamental requirement of holding a licence as an insurance agent, lack of any explanation for such behaviour and lack of evidence of errors and omissions insurance, I believe that the appropriate penalty is revocation of Mr. Hargadon's licence as an insurance agent.

Accordingly, I hereby revoke the life insurance agent licence of Mr. Barry Hargadon.

Dated at Toronto, this 12th day of November, 2009



Executive Director, Licensing and Market Conduct
by delegated Authority from
Superintendent of Financial Services

Schedule 1

The following allegation was set out in the Notice:

1. Mr. Hargadon has contravened section 31(1) of the *Insurance Act* by failing to furnish information requested by the Superintendent in respect of his errors and omissions insurance.