

## **Superintendent of Financial Services**

**Regarding** the life insurance agent licence of  
Ms. Jennifer Burrell

**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 August 26, 2009 (the Notice) informed Ms. Burrell of allegations against her and the opportunity for a hearing before an Advisory Board. The Notice advised Ms. Burrell 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). Ms. Burrell was also advised that such decision could include suspension or revocation of her licence as a life insurance agent.

I have received an affidavit from \_\_\_\_\_, legal counsel at the Commission that the Notice was served by regular and registered mail and that Canada Post reported that the Notice was unclaimed by recipient. \_\_\_\_\_'s memo further indicated that Ms. Burrell left a voice message on September 9, 2009, stating that she was no longer interested in having a licence as an insurance agent. I am satisfied that the Notice was properly served in accordance with the provisions of the Insurance Act. \_\_\_\_\_ affidavit further states that no request for a hearing has been received.

A copy of the allegation is attached to this Decision.

#### The Evidence:

Since Ms. Burrell 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 received notification from Ms. Burrell's insurance company that Ms. Burrell's errors and omissions insurance policy was cancelled. The Commission made several attempts to contact her by mail, registered mail and by telephone without success. Canada Post reports that the registered mail was delivered.

### Findings of Fact

I find the allegation that Ms. Burrell has failed to maintain errors and omissions insurance as is required by Regulation 347/04 to be established. The reasons for this finding are the notification of cancellation of the policy by Ms. Burrell's insurance company and Ms. Burrell's failure to respond to the several attempts by the Commission to contact her.

In the absence of testimony by Ms. Burrell, I am not aware of any explanations for her behaviour or mitigating circumstances.

### Decision:

I have found that Ms. Burrell has failed to maintain errors and omissions insurance as 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, Ms. Burrell 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 Ms. Burrell has not requested a hearing, there are no explanations for her behaviour, nor is there any demonstrated interest in maintaining her licence as an insurance agent.

Accordingly considering the lack of suitability as demonstrated by the failure to facilitate an examination, the absence of the necessary insurance to protect the public and lack of any explanation for such behaviour, I believe that the appropriate penalty is revocation of Ms. Burrell's licence as an insurance agent.

Accordingly, I hereby revoke the life insurance agent licence of Ms. Jennifer Burrell.

Dated at Toronto, this 13th day of November, 2009



Grant Swanson  
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. Failing to maintain appropriate errors and omissions insurance, as is required by Section 13 of Regulation 347/04.