

Superintendent of Financial Services

Regarding the life insurance agent licence of
Mr. Richard Hughes

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

DECISION

Introduction:

Mr. Richard Hughes applied for a licence as an insurance agent. A Notice of Opportunity for Hearing dated June 19, 2009 (the Notice) informed Mr. Hughes of allegations against him that are relevant in a decision about his application and his right to a hearing before an Advisory Board. The Notice advised Mr. Hughes 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. Hughes was also advised that such decision could include denial of his application for a licence.

I have received an affidavit from [REDACTED] Legal Secretary at the Commission that the Notice was served by registered and regular mail to the address given by Mr. Hughes in his application for a licence as an insurance agent. I have received an affidavit from [REDACTED] Legal Counsel at the Commission that Mr. Hughes has not requested a hearing. I am satisfied that the Notice was properly served in accordance with the provisions of the Insurance Act.

A copy of the allegations is attached to this Decision.

The Evidence:

Since Mr. Hughes 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 an application for a licence as an insurance agent from Mr. Hughes. Mr. Hughes had been previously licensed as an insurance agent. While previously licensed as an insurance agent, an investigation was conducted into allegations of forgery and misuse of client funds. Mr. Hughes did not co-operate in the investigation and several attempts to

have Mr. Hughes attend for an interview were unsuccessful. Mr. Hughes was also subject to an audit of his compliance with errors and omissions insurance by the Commission. Mr. Hughes did not respond to the audit. The investigation and the audit were discontinued when Mr. Hughes did not reapply for his life insurance agent licence which expired on January 17, 2007.

Mr. Hughes subsequently applied for a licence as a life insurance agent on January 14, 2009, approximately two years after his previous licence expired. In that application Mr. Hughes provided two false answers to questions whether he had been charged under the Criminal Code or whether a complaint had ever been made against him based on forgery, fraud, or similar conduct.

Findings of Fact

I find the first two allegations that Mr. Hughes respectively is not of good character and reputation as required by Section 4(1) (a) of Regulation 347/04 and that he has demonstrated untrustworthiness to transact the business of insurance as is required by Section 8(d) of Regulation 347/04 to be established for the following reasons. Mr. Hughes allowed cheques payable to a client to be endorsed by another person without consent of his client, he allowed letters purportedly signed by his client to be sent to a financial institution without consent of his client, he furnished false information to the Commission in his application for a licence as an insurance agent, and he failed to facilitate an investigation and an audit by the Commission.

I find the third allegation to be established that Mr. Hughes is not otherwise suitable to be granted a licence as required by Section 4(1)(i) of Regulation 347/04 by virtue of his failure to facilitate an investigation and an audit by the Commission.

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

Decision:

I have found that Mr. Hughes is not of good character and reputation, has demonstrated untrustworthiness to transact the business of insurance and that he is not otherwise suitable to hold a licence as an insurance agent.

Subsection 393 (3) of the Insurance Act establishes suitability as a standard for the Superintendent to consider in granting a licence as an

insurance agent. Regulation 347/04 sets out qualifications of an insurance agent. Protection of the public requires that insurance agents be suitable since the public relies on the competent, trustworthy services of insurance agents.

Based on the findings I have made, I am not satisfied that Mr. Hughes is suitable to be granted a licence as an insurance agent.

I deny the licence application of Mr. Richard Hughes.

Dated at Toronto, this 22nd day of December 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. Hughes is not of good character and reputation as required by section 4(1)(a) of Regulation 347/04, for the following reasons:
 - a. In 2002 and 2003, he had allowed cheques that were payable to a client JC to be endorsed by someone other than JC without the knowledge or consent of JC;
 - b. he allowed letters purportedly signed by his client JC be sent to financial institutions on JC's behalf to redeem investments, without the knowledge or consent of JC;
 - c. furnishing false or misleading information to the Commission in his application for a life insurance agent licence contrary to section 447 of *the Insurance Act*; and,
 - d. failing to comply with or respond to requests by the Commission to confirm his errors and omissions insurance and failed to attend for an interview or to furnish information to the Commission regarding complaints filed by his former clients.

2. Hughes has demonstrated his untrustworthiness to transact the business of insurance per section 8(d) of Regulation 347/04 by:
 - a. In 2002 and 2003, he had allowed cheques that were payable to a client JC to be endorsed by someone other than JC without the knowledge or consent of JC;
 - b. he allowed letters purportedly signed by his client JC be sent to financial institutions on JC's behalf to redeem investments, without the knowledge or consent of JC;
 - c. furnishing false or misleading information to the Commission in his application for a life insurance agent licence contrary to section 447 of *the Insurance Act*; and,
 - d. failing to comply with or respond to requests by the Commission to confirm his errors and omissions insurance and failed to

attend for an interview or to furnish information to the Commission regarding complaints filed by his former clients.

3. Hughes is not otherwise suitable to be granted a licence per section 4(1)(i) of Regulation 347/04 for the following reasons:
 - a. Hughes is not amendable to regulation by the Superintendent as a licensed life insurance agent. He failed to comply with or respond to requests by the Commission to confirm his errors and omissions insurance and failed to attend for an interview or to furnish information to the Commission regarding complaints filed by his former clients.

4. Such further and other allegations as counsel for the Commission may advise.