

## **Superintendent of Financial Services**

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

**AND** Josephine Lee

### **DECISION**

#### Introduction:

A Notice of Opportunity for Hearing dated January 18, 2010 (the Notice) informed Ms. Lee of allegations against her and the opportunity for a hearing before an Advisory Board. The Notice advised her 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. Lee 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 Ms. Swapna Chandra, legal counsel at the Commission that the Notice was served by registered mail. The affidavit further states that no request for a hearing was 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 Ms. Lee 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. Lee's insurance company that Ms. Lee's errors and omissions insurance policy was cancelled. The Commission made several attempts to contact her by email, registered mail and by telephone without success.

### Findings of Fact

I find the allegation that Ms. Lee is unsuitable to hold a licence as a life insurance agent to be established. The reasons for this finding are the notification of cancellation of the policy by Ms. Lee's insurance company and Ms. Lee's failure to respond to the several attempts by the Commission to contact her.

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

### Decision:

I have found that Ms. Lee is unsuitable to hold a licence as a life insurance agent.

Findings of unsuitability frequently result in revocation of the licence of an insurance agent.

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. Lee 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. Lee 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. Lee's licence as an insurance agent.

Accordingly, I hereby revoke the life insurance agent licence of Ms. Josephine Lee.

Dated at Toronto, this 6<sup>th</sup> day of April, 2010

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. Lee is unsuitable to hold a life insurance agent 's licence for the following reason:
  - a. Lee has failed to maintain appropriate errors and omissions insurance, as is required by Section 13 of Regulation 347/04.