

Superintendent of Financial Services

Regarding the life insurance agent licence of
Neemah Jazeena Ally

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 15, 2010 (the Notice) informed Ms. Ally of allegations against her and the opportunity for a hearing before an Advisory Board. The Notice advised Ms. Ally 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. Ally 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 Shaifa Chandani, Licensing Registration Specialist at the Commission that the Notice was served by registered mail and regular mail. The affidavit further states that both letters were sent to the last address on file at FSCO and that the registered letter was returned unclaimed and the letter sent by regular mail was not returned. The Insurance Act provides that service can be made by registered mail at the last known address of a person on file at the Commission. 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 Ms. Ally 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. Ally's insurance company that Ms. Ally's errors and omissions insurance policy was cancelled. The Commission made several attempts to contact her by mail, registered mail, email and by telephone. Ms. Ally initially did not respond to these messages, and when

she did respond, she stated that she did not have errors and omissions insurance at that time and intended to obtain it. Further follow up was conducted by Commission staff; however, there was no response by Ms. Ally.

Findings of Fact

I find the allegation that Ms. Ally is unsuitable to hold a licence as a life insurance agent to be established. The reasons for this finding are the failure to maintain errors and omissions insurance and her failure to facilitate an examination. The notification of cancellation of the policy by Ms. Ally's insurance company and Ms. Ally's admission that she did not have errors and omissions insurance are the basis for the finding that Ms. Ally did not have the required insurance. Ms. Ally's initial failure to respond to the several attempts by the Commission to contact her and her subsequent failure to deliver evidence of such insurance or to respond further to the Commission are the basis of finding that she failed to facilitate an examination. Considering the finding of unsuitability, it is not necessary to consider the allegation of untrustworthiness.

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

Decision:

I have found that Ms. Ally 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. Ally initially would not respond to the Commission on this matter and when she did, she failed to provide evidence of the required insurance. 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. Ally 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. Ally's licence as an insurance agent.

Accordingly, I hereby revoke the life insurance agent licence of Neemah Jazeena Ally.

Dated at Toronto, this twelfth day of November, 2010

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

Schedule 1

The following allegations were set out in the Notice:

1. Ms. Ally has demonstrated untrustworthiness to transact the business of insurance per section 8(d) of regulation 347/04 by:
 - a. Failing to maintain errors and omissions insurance, as is required by Section 13 of Regulation 347/04.
 - b. Failing to respond to attempts by the Commission to obtain information concerning her errors and omissions coverage.
2. Ms. Ally is not otherwise suitable to continue her licence per section 4(1)(i) of regulation 347/04 for the following reasons:
 - a. Ms Ally failed to maintain errors and omissions insurance, as is required by Section 13 of Regulation 347/04.
 - b. Ms Ally failed to respond to attempts by the Commission to obtain information concerning her errors and omissions coverage.