

Superintendent of Financial Services

REGARDING the *Insurance Act*, R.S.O. 1990, c. I.8, as amended (the "Act"), in particular, sections 393(9) – 393(11)

AND REGARDING Michele Woods, life insurance agent

DECISION AND ORDER

Introduction:

A Notice of Opportunity for Hearing dated August 27, 2010 (the Notice) informed Ms. Woods of allegations against her and the opportunity for a hearing before an Advisory Board. The Notice advised Ms. Woods 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. Woods 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 [REDACTED], Legal Secretary at the Commission that the Notice was sent by registered mail and regular mail and that the Notice sent by registered mail was returned undelivered by Canada Post. I have also received an affidavit from [REDACTED] Licensing and Registration Specialist at the Commission that a search for another address for Ms. Woods was conducted and was unsuccessful. Such additional search is not required under the Insurance Act. 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. Woods 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. Woods' insurance company that Ms. Woods' errors and omissions insurance policy was cancelled. The Commission made several attempts to contact her by mail, registered mail, email and by telephone without success.

Findings of Fact

I find that the allegation that Ms. Woods does not have a mailing address in Ontario that is known to the Superintendent, that is not a post office box and that is suitable to permit service by registered mail as required by Regulation 347/04 to be established. In this case, the affidavit from [REDACTED] indicated that Canada Post returned three pieces of correspondence with the notation "Returned to Sender, Moved". It cannot be established conclusively that Ms. Woods was aware of the attempts by the Commission to contact her and obtain information. However, since regulation cannot be thwarted because an agent has failed in her duty under Regulation 347/04 to have a suitable mailing address, Section 33 of the Insurance Act provides that service can be made in several ways, including registered mail to the address in the Commission's file.

I find the allegations that Ms. Woods has failed to maintain the required errors and omissions insurance and is unsuitable to hold a licence as a life insurance agent to be established. The reasons for these findings are the notification of cancellation of the policy by Ms. Wood's insurance company and Ms. Wood's failure to maintain a suitable mailing address, and related failure to respond to the Commission. People who cannot be contacted and respond to the Commission are not suitable to hold a licence as an insurance agent.

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

Decision:

I have found that Ms. Woods 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. Woods did 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. That includes maintenance of a mailing address suitable for receipt of registered mail. Responding to information requests is an attribute of a person suitable to be an insurance agent.

Since Ms. Woods 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. Woods' licence as an insurance agent.

ORDER

Accordingly, I hereby revoke the life insurance agent licence of Michele Woods.

Dated at Toronto, this second day of December, 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. Woods has failed to maintain appropriate errors and omissions insurance (“E&O”), as is required by section 13 of Regulation 347/04.
2. Woods’ apparent failure to comply with the requirements under sections 4(1)(l) and 13 of Ontario Regulation 347/04 since May 7, 2010 affords reasonable grounds for belief that she is ungovernable, and therefore she is unsuitable to hold a life insurance agent licence in Ontario.