

## **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** Katarina Po Wan Ng, life insurance agent

### **DECISION AND ORDER**

#### **Introduction:**

A Notice of Opportunity for Hearing dated August 19, 2010 (the Notice) informed Ms. Ng of allegations against her and the opportunity for a hearing before an Advisory Board. The Notice advised Ms. Ng 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. Ng 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 successfully served by registered mail. I received an affidavit from [REDACTED], Licensing and Registration Specialist at the Commission 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 allegations is attached to this Decision.

#### **The Evidence:**

Since Ms. Ng 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. Ng's insurance company that Ms. Ng's errors and omissions insurance policy was cancelled. The Commission made several attempts to contact her by mail, registered mail, email and by telephone. After several unanswered communications to Ms. Ng, Ms. Ng responded by email asking how to cancel her agent licence. Commission staff replied the same day. However, Ms. Ng did not take any steps to cancel her licence nor did she communicate further with the Commission.

## Findings of Fact

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

I do not find the allegation that Ms. Ng has failed to maintain a mailing address suitable to receive registered mail to be established since Canada Post has confirmed successful delivery of registered mail.

However, I do find that Ms. Ng is unsuitable to hold a licence as an insurance agent. The reasons for this finding are also the notification of cancellation of the policy by Ms. Ng's insurance company and Ms. Ng's failure to respond to the several attempts by the Commission to contact her and her failure to follow through on cancellation of her licence.

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

## Decision:

I have found that Ms. Ng 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. Ng 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. Ng 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. Ng's licence as an insurance agent.

**ORDER**

Accordingly, the life insurance agent licence of Katarina Po Wan Ng is hereby revoked by this order.

Dated at Toronto, this third 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. Ng has failed to maintain appropriate errors and omissions insurance ("E&O"), as is required by section 13 of Regulation 347/04.
2. Ng's 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