

## **Superintendent of Financial Services**

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

**AND REGARDING** Burke Gerry Arthur Destounis, life insurance agent

### **DECISION AND ORDER**

#### **Introduction:**

A Notice of Opportunity for Hearing dated September 15, 2010 (the Notice) informed Mr. Destounis of allegations against him and the opportunity for a hearing before an Advisory Board. The Notice advised Mr. Destounis 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. Destounis was also advised that such decision could include suspension or revocation of his licence as a life insurance agent.

I have received an affidavit from [REDACTED], Licensing and Registration Specialist at the Commission that the Notice was successfully served by registered mail. The affidavit further states that no request for a hearing has been 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 Mr. Destounis 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 Mr. Destounis' insurance company that Mr. Destounis' errors and omissions insurance policy was cancelled. The Commission made several attempts to contact him by mail, registered mail, email and by telephone without success.

### Findings of Fact

I find the allegation that Mr. Destounis 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 Mr. Destounis' insurance company and Mr. Destounis' failure to respond to the several attempts by the Commission to contact him. Considering the finding of unsuitability, it is not necessary to consider the allegation of untrustworthiness.

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

### Decision:

I have found that Mr. Destounis 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, Mr. Destounis 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 Mr. Destounis has not requested a hearing, there are no explanations for his behaviour, nor is there any demonstrated interest in maintaining his 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 Mr. Destounis' licence as an insurance agent.

**ORDER**

Accordingly, the life insurance agent licence of Burke Gerry Arthur Destounis is hereby revoked by this order.

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. Mr. Destournis 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, and/or failing to respond in a timely way, to repeated attempts by the Commission to obtain information concerning his errors and omissions coverage.
2. Mr. Destournis is not otherwise suitable to continue his licence per section 4(1)(i) of Regulation 347/04 for the following reasons:
  - a. Mr. Destournis failed to maintain errors and omissions insurance, as is required by Section 13 of Regulation 347/04.
  - b. Mr. Destournis failed to respond, and/or failed to respond in a timely way, to repeated attempts by the Commission to obtain information concerning his errors and omissions coverage.

## **Superintendent of Financial Services**

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**AND REGARDING** Burke Gerry Arthur Destounis, life insurance agent

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I have received an affidavit from [REDACTED], Licensing and Registration Specialist at the Commission that the Notice was successfully served by registered mail. The affidavit further states that no request for a hearing has been 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 Mr. Destounis 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 Mr. Destounis' insurance company that Mr. Destounis' errors and omissions insurance policy was cancelled. The Commission made several attempts to contact him by mail, registered mail, email and by telephone without success.

## Findings of Fact

I find the allegation that Mr. Destounis 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 Mr. Destounis' insurance company and Mr. Destounis' failure to respond to the several attempts by the Commission to contact him. Considering the finding of unsuitability, it is not necessary to consider the allegation of untrustworthiness.

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

## Decision:

I have found that Mr. Destounis is unsuitable to hold a licence as a life insurance agent.

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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, Mr. Destounis 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 Mr. Destounis has not requested a hearing, there are no explanations for his behaviour, nor is there any demonstrated interest in maintaining his 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 Mr. Destounis' licence as an insurance agent.

**ORDER**

Accordingly, the life insurance agent licence of Burke Gerry Arthur Destounis is hereby revoked by this order.

Dated at Toronto, this second day of December, 2010

Grant Swanson  
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### Findings of Fact

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**ORDER**

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  - a. Failing to maintain errors and omissions insurance, as is required by Section 13 of Regulation 347/04.
  - b. Failing to respond, and/or failing to respond in a timely way, to repeated attempts by the Commission to obtain information concerning his errors and omissions coverage.
2. Mr. Destournis is not otherwise suitable to continue his licence per section 4(1)(i) of Regulation 347/04 for the following reasons:
  - a. Mr. Destournis failed to maintain errors and omissions insurance, as is required by Section 13 of Regulation 347/04.
  - b. Mr. Destournis failed to respond, and/or failed to respond in a timely way, to repeated attempts by the Commission to obtain information concerning his errors and omissions coverage.