

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 Glenn Joseph Donnelly, life insurance agent

DECISION and ORDER

Introduction:

A Notice of Opportunity for Hearing dated August 27, 2010 (the Notice) informed Mr. Donnelly of allegations against him and the opportunity for a hearing before an Advisory Board. The Notice advised Mr. Donnelly 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. Donnelly 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], Legal Secretary at the Commission that the Notice was served by registered mail and regular mail. I have been provided a copy of a confirmation from Canada Post that the Notice was successfully delivered. I have been provided an email from [REDACTED], Assistant Registrar at the Commission 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. Donnelly 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. Donnelly's insurance company that Mr. Donnelly's errors and omissions insurance policy was cancelled. The Commission made several attempts to contact him by registered mail and by telephone without success.

Findings of Fact

I find the allegations that Mr. Donnelly 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 Mr. Donnelly's insurance company and Mr. Donnelly's failure to respond to the several attempts by the Commission to contact him.

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

Decision:

I have found that Mr. Donnelly 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. Donnelly 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. Donnelly 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. Donnelly's licence as an insurance agent.

ORDER

Accordingly, the life insurance agent licence of Glenn Joseph Donnelly is hereby revoked by this order.

Dated at Toronto, this thirteenth 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. Glen Joseph Donnelly has failed to maintain appropriate errors and omissions insurance ("E&O"), as is required by section 13 of Regulation 347/04.
2. Donnelly is not amenable to regulation, pursuant to sections 4(1)(i) and 8(d) of Ontario Regulation 347/04. Repeated efforts made to contact the agent were unsuccessful in obtaining information regarding E&O insurance coverage.