

Superintendent of Financial Services

Regarding the Insurance Act, R.S.O. 1990, c.1.8, as amended, in particular, sections 393(9) - 393 (11)

AND REGARDING Mahinder Pal Singh

DECISION AND ORDER

Introduction:

A Notice of Opportunity for Hearing dated February 18, 2011 (the Notice) informed Mahinder Pal Singh of allegations against him and the opportunity for a hearing before an Advisory Board. The Notice advised Mr. Singh if a hearing was not requested the Superintendent would make a decision based on information in possession of the Financial Services Commission of Ontario (the Commission). Mr. Singh 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 Mr. Sean Mitchell, Manager, Licensing Compliance at the Commission that the Notice was sent by registered mail and that Canada Post confirmed successful delivery. The affidavit further states 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 and that Mr. Singh did not request a hearing.

A copy of the allegations is attached to this Decision.

The Evidence:

Since Mr. Singh 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 an application from Mr. Singh for renewal of his licence that expired on October 17, 2009. In that application Mr. Singh noted that he did not have the required continuing education, but would complete the requirement in two weeks. Commission staff contacted Mr. Singh and requested proof of completion of the continuing education and were requested by Mr. Singh to provide more time. Mr. Singh stated that he was suffering from a

medical condition. This process of contact and requests for extension continued another three times, resulting in a total extension time of approximately one year. Finally Mr. Singh failed to respond to email or registered mail.

Findings of Fact

I find the allegation that Mr. Singh has failed to comply with the continuing education requirements. Mr. Singh admitted that he had not done so in his licence application and failed to provide evidence of compliance thereafter.

I find the allegation that Mr. Singh failed to facilitate an examination to be established. Mr. Singh did not provide the requested information and ultimately failed to respond to the email or registered mail from the Commission. The Insurance Act requires that licensed persons facilitate an examination.

I find the allegation that Mr. Singh is unsuitable to hold a licence as an insurance agent to be established by virtue of his failure to complete the continuing education requirement despite being granted his four requests for extension of time and his failure to facilitate an examination.

I considered Mr. Singh's comment to Commission staff that he was suffering from a medical condition. He was accommodated four times by Commission staff granting his request for an extension of time to complete the continuing education requirement. Since Mr. Singh did not request a hearing, it was not possible to explore this further and in particular to assess whether a medical condition that might preclude completion of continuing education might also preclude his ability to serve clients as a life insurance agent.

Decision:

I have found that Mr. Singh has failed to comply with the continuing education requirement, has failed to facilitate an examination and is not suitable to hold a licence as a life insurance agent.

Regulation 347/04 requires the completion of thirty hours of continuing education in each two year licence period. This Mr. Singh failed to do, and a penalty is warranted. The penalties imposed in other cases have typically been suspensions in the range of 30 to 90 days. However more serious penalties, including revocation of licence, have also been imposed. These serious penalties have been ordered in circumstances

such as agents that did not demonstrate an intention to complete the continuing education requirement or through their refusal to co-operate with the Commission demonstrated that they were not prepared to be regulated.

In this case, Mr. Singh repeatedly failed to comply with the continuing education requirement despite requesting and being granted four extensions of time. Ultimately Mr. Singh 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. Singh has not requested a hearing, there is no basis to assess his explanation of a medical condition and the implications of any such condition on his ability to continue to act as an insurance agent, 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 failure to meet the continuing education requirement or demonstrate any intention to complete this requirement, and his failure to request and attend a hearing to answer questions why he did not complete his continuing education and related implications on his ability to act as an insurance agent, I believe that the appropriate penalty is revocation of Mr. Singh's licence as an insurance agent.

ORDER

Accordingly, the life insurance agent licence of Mahinder Pal Singh is hereby revoked by this order.

Dated at Toronto, this thirty first day of May, 2011

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