

An order that is made regarding a licence holder reflects a situation at a particular point in time. The status of a licence holder can change. Readers should check the current status of a person's or entity's licence on the [Licensing Link](#) section of FSCO's website. Readers may also wish to contact the person or entity directly to get additional information or clarification about the events that resulted in the order.

Superintendent of Financial Services

Regarding the *Insurance Act*, R.S.O. 1990, c.1.8, as amended (the “Act”), in particular, sections 31(1) (c) 393(9) – 393(11), 443(1) & (2) and 447(2) (b), and Ontario Regulation 347/04 (the “Regulation”), in particular, section 13

AND REGARDING Monica Jain

DECISION and ORDER

Introduction:

A Notice of Opportunity for Hearing dated February 16, 2011 (the Notice) informed Ms. Jain of allegations against her and the opportunity for a hearing before an Advisory Board. The Notice advised Ms. Jain 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. Jain 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], licensing and registration specialist at the Commission that the Notice was served by registered mail. I am satisfied that the Notice was properly served in accordance with the provisions of the Insurance Act. Ms. Jain has not requested a hearing.

A copy of the allegations is attached to this Decision.

The Evidence:

Since Ms. Jain 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. Jain’s insurance company that Ms. Jain’s errors and omissions insurance policy was cancelled. The Commission made several attempts to contact her by mail, email, and registered mail. After several attempts, Ms. Jain replied by email that she had not sold insurance for a long time, had allowed her errors and omissions insurance coverage to expire, and was considering allowing her licence as an insurance agent to expire. She noted that she would advise the

Commission of her decision in a few weeks. [REDACTED] replied by email that errors and omissions insurance coverage was mandatory and that she had the option to surrender her licence. Ms. Jain did not respond.

Findings of Fact

I find the allegation that Ms. Jain has failed to maintain errors and omissions insurance to be established. The reasons for this finding are the notification of cancellation of the policy by Ms. Jain's insurance company and Ms. Jain's admission of this fact.

I find the allegation that Ms. Jain has failed to facilitate an investigation to be established. The reasons are Ms. Jain's failure to provide evidence of such insurance in response to mail and telephone requests for such evidence. Ms. Jain made one response to the Commission, but she did not follow up on her intended action. That is not the standard of facilitating an examination that is expected of insurance agents

I find the allegation that Ms. Jain is unsuitable to hold a licence as an insurance agent to be established by virtue of her failure to maintain errors and omissions insurance and her failure to facilitate an examination. That does not mean that she could not at some time in the future become suitable by retraining in both her obligations to the Superintendent and her obligations under the law such as by completing the Life Agent Qualification Program.

While Ms. Jain did not request a hearing, she offered an explanation for her actions by email. In that email she stated that she had not sold insurance for a "long time and that is why she didn't renew her E&O" Since Ms. Jain did not request a hearing, it is not possible for an Advisory Board to question her about this statement. Since the requirement to maintain errors and omissions insurance is established by law, it is not reassuring to hear that Ms. Jain decided not to renew her errors and omissions insurance.

Decision:

I have found that Ms. Jain 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. Jain 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. Jain 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, and the absence of the necessary insurance to protect the public, I believe that the appropriate penalty is revocation of Ms. Jain's licence as an insurance agent.

ORDER

Accordingly, the life insurance agent licence of Ms. Jain is hereby revoked by this order.

Dated at Toronto, this thirtieth day of April, 2011

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