

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 Ava Pepin

DECISION and ORDER

Introduction:

A Notice of Opportunity for Hearing dated February 16, 2011 (the Notice) informed Ms. Pepin of allegations against her and the opportunity for a hearing before an Advisory Board. The Notice advised Ms. Pepin 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. Pepin 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 sent by registered mail to the last address on file at the Commission. Canada Post indicated that the letter was unclaimed. While the Commission is not required to do so, [REDACTED] memo further indicated that attempts had been made to locate Ms. Pepin. Searches had been conducted of the Canada 411 website and the Ministry of Transportation database for another address. The Commission also attempted to contact Ms. Pepin by telephone and email. The Insurance Act provides that service can be made by registered mail at the last known address of a person on file at the Commission. I am satisfied that the Notice was properly served in accordance with the provisions of the Insurance Act. No request for a hearing was received.

A copy of the allegations is attached to this Decision.

The Evidence:

Since Ms. Pepin 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. Pepin's insurance company that Ms. Pepin's errors and omissions insurance policy was cancelled. The Commission made several attempts to contact her by mail, email, registered mail and by telephone without success.

Findings of Fact

I find the allegation that Ms. Pepin 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. Pepin's insurance company and Ms. Pepin's failure to respond to the request by the Commission for evidence of such insurance.

I find the allegation that Ms. Pepin has failed to facilitate an investigation to be established. The reasons are Ms. Pepin's failure to provide evidence of such insurance in response to mail and telephone requests for such evidence. The Insurance Act requires that licensed persons facilitate an examination and accordingly a necessary aspect of this duty is that agents have an address known to the Superintendent at which they can be contacted.

I find the allegation that Ms. Pepin 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.

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

Decision:

I have found that Ms. Pepin 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. Pepin did 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. Pepin has not requested a hearing, there are no explanations for her behaviour.

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. Pepin's licence as an insurance agent.

ORDER

Accordingly, the life insurance agent licence of Ms. Pepin 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