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**Financial Services
Commission
of Ontario**
5160 Yonge Street,
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Toronto ON M2N 6L9

REGARDING the Insurance Act, R.S.O. 1990, c.1.8, as amended, in particular, sections 393(9) - 393 (11), 443(1)&(2), and 447(2)(b), and Ontario Regulation 347/04 (the "Regulation"), in particular section 13

AND REGARDING Christine A. Hutter

DECISION AND ORDER

Introduction:

A Notice of Opportunity for Hearing dated March 20, 2012 (the Notice) informed Christine Hutter of allegations against her and the opportunity for a hearing before an Advisory Board. The Notice advised Ms. Hutter 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). Ms. Hutter 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 Paul Fournier, Licensing and Registration Specialist 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 Ms. Hutter did not request a hearing.

A copy of the allegations is attached to this Decision.

The Evidence:

Since Ms. Hutter 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. Ms. Hutter held a licence as a life insurance agent which expired on February 21, 2009. Ms. Hutter did not complete the required continuing education during the licence term ending on that date. After a period of being unlicensed, Ms Hutter subsequently reapplied for a licence. A licence was issued on March 25, 2011 conditional on Ms. Hutter completing her continuing education requirements. Commission staff attempted to contact Ms. Hutter by letter, registered mail, email and telephone to ascertain her plans to comply. Ms. Hutter did not respond to these requests.

Findings of Fact

I find that Ms. Hutter has failed to comply with the continuing education requirements. Ms. Hutter admitted that she had not done so and failed to provide evidence of compliance thereafter.

I find that Ms. Hutter failed to respond to requests for information from the Commission. Commission staff made four requests by telephone, email, regular mail and registered mail without success.

I find that Ms. Hutter is unsuitable to hold a licence as an insurance agent to be established by virtue of her failure to complete the continuing education requirement and her failure to respond to information requests from the Commission.

The Notice referred to a period of extended illness as a reason stated by Ms. Hutter for non-compliance with the continuing education requirement. To consider what, if any, weight should be placed on this factor, Commission staff contacted Ms Hutter by letter in June 2012 to again ask whether she wanted a hearing. Ms. Hutter did not request a hearing. Accordingly, I believe that Ms. Hutter has had sufficient opportunity to request a hearing to explain any mitigating circumstances and that she has failed to do so. Accordingly in the absence of testimony by Ms. Hutter, I am unable to consider any explanations for her behaviour or mitigating circumstances

Decision:

I have found that Ms. Hutter has failed to comply with the continuing education requirement, has failed to rectify the non compliance, 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 Ms. Hutter 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, Ms. Hutter failed to comply with the continuing education requirement despite requests from the Commission. Ms. Hutter did not meet her obligation to respond to information requests from the Commission. Insurance agents must be governable and amenable to being regulated.

Since Ms. Hutter 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 meet the continuing education requirement, the failure to respond to the Commission, and lack of any explanation for such behaviour, I believe that the appropriate penalty is revocation of Ms. Hutter's licence as an insurance agent.

ORDER

Accordingly, the life insurance agent licence of Christine Hutter is hereby revoked by this order.

DATED at Toronto, this second day of August, 2012

Original Signed By

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