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**Financial Services
Commission
of Ontario**
5160 Yonge Street,
Box 85
Toronto ON M2N 6L9

REGARDING the *Insurance Act*, R.S.O. 1990, c.1.8, as amended (the “Act”), in particular, sections 393(9) – 393(11)

AND REGARDING Patrick Mahama, life insurance agent

DECISION and ORDER

Introduction:

A Notice of Opportunity for Hearing dated May 30, 2011 (the Notice) informed Mr. Mahama of allegations against him and the opportunity for a hearing before an Advisory Board. The Notice advised Mr. Mahama 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. Mahama 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 Joe Nemet, Legal Counsel at the Commission that Mr. Mahama initially requested a hearing, but subsequently withdrew his request for a hearing.

A copy of the allegations is attached to this Decision.

The Evidence:

Since Mr. Mahama 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 conducted an audit of Mr. Mahama to determine whether he was in compliance with the requirement to maintain errors and omissions insurance. The Commission made several attempts to contact him by mail, registered mail and by telephone without success.

Findings of Fact

I find the allegation that Mr. Mahama has failed to maintain errors and omissions insurance to be established. The reasons for this finding are Mr. Mahama's failure to respond to the request by the Commission for evidence of such insurance and the failure to request a hearing. The existence of errors and omissions insurance can easily be proven and Mr. Mahama was clearly aware of the Commission's request and the consequence of failure to comply with this request.

I find the allegation that Mr. Mahama has failed to facilitate an investigation to be established. The reasons are Mr. Mahama's failure to provide evidence of such insurance in response to mail and telephone requests for such evidence.

I find the allegation that Mr. Mahama is unsuitable to hold a licence as an insurance agent to be established by virtue of his failure to maintain errors and omissions insurance and his failure to facilitate an examination.

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

Decision:

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

ORDER

Accordingly, the life insurance agent licence of Patrick Mahama is hereby revoked by this order.

Dated at Toronto, this third day of January, 2012

Original Signed By

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

3. As a result of the above violations, he is not suitable to maintain his licence pursuant to section 4(1) (i) of the Regulation.
4. Such further allegations as counsel for FSCO may advise.

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