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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 31(1)(c) 393(9) – 393(11)

AND REGARDING Lana Lee Lowartz, life insurance agent

DECISION and ORDER

Introduction:

A Notice of Opportunity for Hearing dated January 9, 2012 (the Notice) informed Ms Lowartz of allegations against her and the opportunity for a hearing before an Advisory Board. The Notice advised Ms Lowartz 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 Lowartz 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 Ms. Karen McNamara-Mucha, Licensing and Registration Specialist at the Commission that the Notice was sent by ordinary and registered mail to the address on file at the Commission. Canada Post returned the registered letter as unclaimed. The affidavit further states that no request for a hearing

was received. 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 and that no request for a hearing was received.

A copy of the allegations is attached to this Decision.

The Evidence:

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

Findings of Fact

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

I find the allegation that Ms Lowartz is not amenable to regulation by virtue of Ms Lowartz failure to maintain errors and omissions insurance and her failure to provide evidence of such insurance in response to email, mail and telephone requests for such evidence.

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

Decision:

I have found that Ms Lowartz is not amenable to regulation and accordingly 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 Lowartz 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 Lowartz 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, 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 Lowartz's licence as an insurance agent.

ORDER

Accordingly, the life insurance agent licence of Lana Lee Lowartz is hereby revoked by this order.

Dated at Toronto, this nineteenth day of June, 2012

Original Signed By

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

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