

Superintendent of Financial Services

Regarding the life insurance agent licence of Wilton Neale and the corporate life insurance agent licence of 360 Degree Financial Services Inc.

AND the Insurance Act, R.S.O. 1990, c.1.8, as amended, particularly subsections 393(9) – 393(11)

DECISION

Introduction:

A Notice of Opportunity for Hearing dated February 23, 2009 (the Notice) informed Wilton Neale and 360 Degree Financial Services Inc. (collectively referred to as Mr. Neale and his corporation) of allegations against him and the opportunity to a hearing before an Advisory Board. The Notice advised Mr. Neale and his corporation 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. Neale and his corporation were also advised that such decision could include suspension or revocation of their licences as life insurance agents.

I have received an affidavit from [REDACTED] Legal Secretary at the Commission that the Notice was served by registered mail and regular mail on Mr. Neale and his corporation. I have received an affidavit from [REDACTED] Investigator at the Commission that the address to which the notice was sent was the last known address shown on the records of the Commission for Mr. Neale and his corporation. [REDACTED] s affidavit further states that he was advised by the Registrar of the Financial Services Tribunal and that no request for a hearing had been received. I am satisfied that the Notice been properly served.

A copy of the allegations is attached to this Decision.

The Evidence:

Since Mr. Neale and his corporation have 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. Mr. Neale encouraged

clients to apply for loans from a trust company for investment purposes. The trust company forwarded the funds from the loans directly to Mr. Neale's corporation. Mr. Neale had primary control of the accounts of his corporation and was its sole director. Two clients and possible eight clients are involved. The two clients had directed that their funds be invested in segregated fund products offered by a specific insurance company. The insurance company states that it never received such funds. Mr. Neale can no longer be located and his corporation has ceased operations and closed its offices. No accounting was provided to his clients about the location of their funds.

Findings of Fact

Since Mr. Neale could not be contacted by the Commission and did not request a hearing, I do not have the benefit of any explanations or comments that he might make.

Mr. Neale failed to follow the instructions of his clients and failed to provide them a satisfactory accounting of what happened to their funds. This demonstrates incompetence and untrustworthiness to transact business as an insurance agent. Accordingly I find the third allegation to be established. This evidence also demonstrates that Mr. Neale is not of good character and reputation and is not suitable to hold a licence as an insurance agent. Accordingly I find the first allegation to be established. Mr. Neale's corporation received the client funds and has not provided a satisfactory accounting for those funds. This demonstrates incompetence or untrustworthiness. Accordingly I find the third allegation to be established.

Considering the language of Section 8(c) of regulation 347/04, I am not prepared to make a finding with respect to the second allegation.

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

Decision:

I have found that Mr. Neale and his corporation are not suitable to be insurance agents. I have also found that Mr. Neale and his corporation demonstrated incompetence and untrustworthiness.

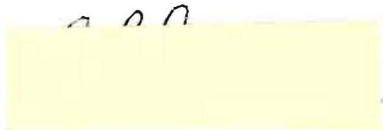
In other cases a finding of lack of suitability has resulted in revocation of the insurance agent's licence. In the absence of testimony by Mr. Neale, I am not able to assess whether this lack of suitability can be appropriately managed to minimize the risk to the public. Accordingly, I believe that revocation of the insurance agent licences of Mr. Neale and

his corporation is required.

I hereby revoke the insurance agent licence of Mr. Wilton Neale.

I hereby revoke the insurance agent licence of 360 Degree Financial Services Inc.

Dated at Toronto, this 8th day of April, 2009

A yellow rectangular redaction box covers the signature of Grant Swanson. Above the box, the handwritten initials "G.S." are visible.

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. Wilton Neale ("Neale") has demonstrated that he is not of good character and reputation and is not suitable to be licensed, as per the requirements of s. 4(1)(a) of Regulation 347/04
2. Neale has violated the conditions for a continued licence by engaging in a fraudulent act or practice in contravention of s. 8(c) of Regulation 347/04.
3. Neale has demonstrated his incompetence and untrustworthiness to transact the insurance agency business for which the licence has been granted as per section 8(d) of Regulation 347/04 by,
 - a. committing a prohibited act under s.17(c) of the Regulation, by making a false or misleading statement or representation in the solicitation or registration of insurance.
 - b. committing an unfair or deceptive act or practice pursuant to section 5 of Ontario Regulation 7/00, by making a false or misleading statement as to the terms, benefits or advantages of any contract or policy of insurance issued or to be issued.
4. 360 Degree Financial Services Inc. ("360 Degree Financial") holds a corporate agency licence under the *Insurance Act* ("Act") and as per s. 400(6), is subject to the provisions of the Act with respect to agents. 360 Degree Financial has not complied with the provisions of the Act with respect to agents by,
 - a. violating the conditions for a continued licence by engaging in a fraudulent act or practice.
 - b. demonstrating its incompetence or untrustworthiness to transact the insurance agency business for which the licence has been granted.
5. Such further allegations as the Commission may advise.