

## **Superintendent of Financial Services**

**Regarding** the life insurance agent licence of Victor Siu-Wern Jo and the corporate life insurance agent licence of Victor Jo and Associates 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 Victor Siu-Wern Jo and Victor Jo and Associates Inc (collectively referred to as Mr. Jo and his corporation) of allegations against him and the opportunity for a hearing before an Advisory Board. The Notice advised Mr. Jo 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. Jo 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 S [REDACTED] ra, legal counsel at the Commission that the Notice was served by registered mail. Ms. Chandra's memo further indicated that the register mail was returned. 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.

While no further attempts to serve the Notice are required under the Insurance Act, a second service of the Notice was made. This was done as a result of information that came to the attention of the Commission that Mr. Jo was incarcerated in a correctional facility at about the time that the first service of the Notice was made. As a result a second service of the Notice was made on April 17, 2009 by regular and registered mail. Both of these Notices were returned with the notation "moved". The Commission was advised that Mr. Jo was required to reside at the address used for service of the Notice as a condition of his probation. Notwithstanding these notations on the returned Notices, I am satisfied that the Notice was properly served in accordance with the provisions of the Insurance Act.

A copy of the allegations is attached to this Decision.

The Evidence:

Since Mr. Jo 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. Jo misappropriated funds from two clients. Cheques issued by two clients for the purpose of investment transactions and repaying a loan against an insurance policy were deposited in an account belonging to Mr. Jo. A copy of one of the cheques was presented as evidence. The Commission was advised that Mr. Jo had confessed to an official of an insurance company investigating the complaint of one of these clients that he did not invest the client's money, notwithstanding that he had represented to his client that he had done so. He was subsequently arrested by police and charged with Fraud over \$ 5000. As a condition of his bail, Mr. Jo is required to remain at his current address. Mr. Jo has failed to respond to attempts by the Commission to contact him by registered mail and in attendance at his residence.

I have further been informed by Terry Weller, Investigator at the Commission that the police advised him that on January 9, 2009 Mr. Jo plead guilty to the charges and received a sentence of six months in jail and twelve months probation.

Findings of Fact

Mr. Jo has been convicted of theft over \$ 5000. The standard of proof for criminal charges is higher than is required in a regulatory hearing, and accordingly I have considered the allegations made and the evidence presented in that context. The evidence of the cheque, the confession, the police charges, the conviction and Mr. Jo's failure to answer questions about these events as is required by his licence, are sufficient to support a finding that he is not suitable to be licensed as an insurance agent. It is necessary for agents to accept the authority of the Commission and to facilitate an examination as is required by the Insurance Act as a condition of licence. Agents who do not do so are not governable and are not suitable to hold a licence. Accordingly, I find the third allegation to be established.

Mr. Jo has also registered his corporation as an insurance agent. Considering my finding that Mr. Jo is not suitable to be an insurance

agent, I accordingly must find that his corporation, Victor Jo and Associates Inc is also unsuitable to act as an insurance agent. Accordingly I find the fourth allegation to be established.

I find the first allegation to be established by virtue of Mr. Jo's failure to execute the instructions of his clients and depositing their cheques to a bank account which he established.

I find the second allegation to be established by virtue of Mr. Jo's conviction.

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

Decision:

I have found that Mr. Jo and his corporation lack suitability to be insurance agents. I have also found that Mr. Jo 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. Jo, 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 Mr. Jo and his corporation's licence is required.

I hereby revoke the insurance agent licence of Mr. Victor Siu-Wern Jo.

I hereby revoke the insurance agent licence of Victor Jo and Associates Inc.

Dated at Toronto, this second day of June, 2009



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

The Financial Services Commission of Ontario ("Commission") submits that the life insurance agent's licence of Victor Siu-Wern Jo ("Jo") and the corporate licence of Victor Jo and Associates Inc. ("Jo and Associates") should be suspended or revoked based upon the following Allegations, details of which are set out separately under Particulars.

### Allegations

1. Jo demonstrated his incompetence and untrustworthiness to transact the business of an insurance agency for which the licence has been granted as per section 8(d) of Regulation 347/04.
2. Jo 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. Jo 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.
4. Jo and Associates is a licensed corporation under the *Insurance Act* ("Act") and subject to the provisions of the Act with respect to agents and adjusters. Jo and Associates has not has not complied with the provisions as per s. 400(8) of the Act.
5. Such further allegations as the Commission may advise