

Superintendent of Financial Services

Regarding the life insurance agent licence of
Queenie Marilyn Sinclair

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 November 19, 2008 (the Notice) informed Queenie Marilyn Sinclair of allegations against her and the opportunity to a hearing before an Advisory Board. The Notice advised Ms. Sinclair that 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. Sinclair was also advised that such decision could include suspension or revocation of her licence as a life insurance agent.

I have received an affidavit (Affidavit # 1) of _____ Licensing and Registration Specialist at the Commission. Among other things, Affidavit # 1 stated that a copy of the Notice was served on Ms Sinclair by regular and registered mail, and that the registered letter was returned to the Commission marked "unclaimed".

While this is sufficient service under the Insurance Act, the Commission undertook further steps to contact Ms Sinclair. In another affidavit of _____ (Affidavit # 2), Legal Counsel at the Commission, _____ noted that she contacted Ms Sinclair by telephone in January 2009 and was advised that Ms Sinclair had moved towards the end of December 2008 and that she requested an extension of time to complete her continuing education which she anticipated completing by March 2009. _____ made further attempts to contact Ms Sinclair and received no response.

Since _____ had expressed an intention to comply with the continuing education requirements, a new notice of opportunity for a hearing with identical allegations to the Notice was issued on March 30, 2009 and served on April 4, 2009. I have received an affidavit of service (Affidavit #3) from _____, Process Server for Select Document Services Inc. I am further advised in Affidavit # 1 that no request for a hearing has been received.

I am satisfied that the Notice has been properly served, and that Ms. Sinclair did not avail herself of the opportunity for a hearing.

A copy of the allegations is attached to this Decision.

The Evidence:

Since Ms. Sinclair 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. Sinclair declared in her application for renewal of her licence that she had not completed the required continuing education. She stated that she was currently completing the requirements and set out a date when she expected that would be done. Her licence was renewed on this basis and a non-compliance letter was sent to her. Commission staff made numerous attempts to contact Ms. Sinclair by telephone and email about completion of the continuing education requirement, including sending a second notice of non compliance. There was no response from Ms. Sinclair to these frequent attempts to contact her, except for one conversation with _____ (as previously noted) where she requested more time, and then failed to respond either with respect to her compliance or to the second notice of opportunity for a hearing.

Findings of Fact

I find the first allegation is established by virtue of Ms. Sinclair's admission on her licence application and her subsequent failure to respond to the Commission to provide proof that the continuing education obligation had subsequently been satisfied. I find the second allegation to be established by virtue of Ms. Sinclair's failure to facilitate an examination by not responding to Commission staff

In the absence of testimony by Ms. Sinclair, there are no explanations for her behaviour or mitigating circumstances to consider.

Decision:

I have found that Ms. Sinclair has not completed the continuing education requirement and has failed to facilitate an examination.

The findings of failure to complete the continuing education requirement and failure to facilitate an examination warrant a penalty. Considering that it is not possible to regulate an insurance agent who will not respond to his or her regulator, the appropriate penalty is revocation of the licence as an insurance agent. I hereby revoke the life insurance agent's licence of Queenie Marilyn Sinclair.

Dated at Toronto, this 3rd day of July, 2009

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. Sinclair has contravened section 14 of Regulation 347/04 by failing to complete at least 30 hours of continuing education acceptable to the Superintendent in respect of life insurance.
2. Sinclair is not otherwise suitable to continue her licence per section 4(1)(i) of Regulation 347/04 for the reasons stipulated below.