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Superintendent of Financial Services

Regarding the life insurance agent licence of
Daniel Christopher Jeffry Mullins

AND the Insurance Act, R.S.O. 1990, c.1.8, as amended,
particularly Part XIV

DECISION

Introduction:

A Notice of Opportunity for Hearing dated May 13, 2009 (the Notice) informed Daniel Mullins of allegations against him and the opportunity to a hearing before an Advisory Board. The Notice advised Mr. Mullins 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). Mr. Mullins was also advised that such decision could include suspension or revocation of his licence as a life insurance agent. The hearing was conducted on July 2, 2009.

The allegations were set out in Schedule "1" as attached.

The report of the Advisory Board is attached.

Findings of the Advisory Board

The Advisory Board found the first allegation of contravention of the continuing education requirement to be established. The Advisory Board made no finding with respect to the allegation about suitability to be licensed as an insurance agent. I adopt the findings of the Advisory Board.

Recommendation of the Advisory Board

The Advisory Board recommended that Mr. Mullins licence as an insurance agent be suspended for a period of sixty days. The Advisory Board set out the factors it considered in making its recommendation. These include Mr. Mullins' failure to obtain the required continuing education in accordance with Regulation 347/04, his failure to comply with minutes of settlement, and his lack of responsiveness to the Commission. The Advisory Board noted that Mr. Mullins ultimately obtained the required

continuing education, but delayed in providing evidence of completion of the requirement until late in the afternoon on the last business day before the scheduled Advisory Board hearing.

The Advisory Board did not identify any mitigating factors.

Decision:

The Advisory Board has found that Mr. Mullins had not completed the continuing education requirement of Regulation 347/04.

The Advisory Board stated "...Mr. Mullins' irresponsible conduct has put personnel of the Commission, counsel and this Board to tremendous and unnecessary expense, and in fairness to all of the participants in this drama, some consequence seems called for." While I do not believe that fairness to personnel of the Commission, counsel, and the Advisory Board is a behaviour required by the Insurance Act, all licensed persons are required by the Insurance Act to respond to their regulator. This is referred to as the obligation to facilitate an examination. The Advisory Board report provides examples of Mr. Mullins' failure to respond and his failure to comply with minutes of settlement.

Mr. Mullins' behaviour has serious consequences to the system of regulation. It unnecessarily consumes regulatory resources that can be put to use in public protection. It increases the cost of regulation which is ultimately born by persons holding licences.

Regulation 347/04 requires the completion of thirty hours of continuing education in each two year licence period. This Mr. Mullins failed to do, and for which a penalty is warranted. The penalties imposed in other cases have typically been suspensions in the range of 30 to 90 days. However more serious penalties, including revocation of licence, have also been imposed. These serious penalties have been ordered in circumstances such as agents not indicating any intention of completing the continuing education requirement or having made false statements to the Commission.

Mr. Mullins' failure to facilitate an examination or breach of minutes of settlement provides context for a decision about the appropriate penalty within the range of penalties imposed for continuing education contraventions. I agree with the recommendation of the Advisory Board that a period of suspension of sixty days is appropriate. The context described above supports a period of suspension greater than the minimum in the range typically imposed. Typically, penalties at the top of the range involve more than one finding against the agent.

I hereby order that the insurance agent licence of Mr. Daniel Christopher Jeffry Mullins be suspended for a period of sixty days commencing September 1, 2009.

Dated at Toronto, this 20th 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

Mullins has violated a provision of the licence in the licensee's operation as an agent by:

1. Contravening 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. Mullins is not otherwise suitable to continue his licence per section 4(1)(i) of Regulation 347/04 for the reasons stipulated under the Particulars section.

Mullins has demonstrated his incompetence or untrustworthiness to transact the insurance agency business for which the licence has been granted by:

3. Contravening 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.
4. Violating the agreement stipulated in the Minutes of Settlement entered into between Mullins and the Superintendent.
5. Mullins is not otherwise suitable to continue his licence per section 4(1)(i) of Regulation 347/04 for the reasons stipulated in the Notice