

Superintendent of Financial Services

Regarding the life insurance agent licence of
Ms Lei Chen

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

DECISION AND ORDER

Introduction:

A Notice of Opportunity for Hearing dated January 2, 2014 (the Notice) informed Ms Chen of allegations against her and the opportunity for a hearing before an Advisory Board. The Notice advised Ms Chen 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 Chen was also advised that such decision could include the refusal of her application for a licence as a life insurance agent.

I have received an affidavit from Jesse Green, Licensing and Registration Specialist at the Commission that the Notice was served by registered mail to the address on file at the Commission. The affidavit states that Canada Post successfully delivered the Notice. The affidavit further indicates that no request for a hearing has been received. 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 Ms Chen 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. While Ms Chen was licensed as a life insurance agent, the Commission received notification from Ms Chen's insurance company that Ms Chen's errors and omissions insurance policy was cancelled. The Commission made several attempts to contact Ms Chen by email, registered mail and by telephone without success. Ms. Chen's licence expired and she applied for a new licence on April 29, 2013. That application is the subject of this decision and order.

Findings of Fact

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

I find the allegation that Ms Chen has failed to facilitate an investigation to be established. The reasons are Ms Chen's failure to provide evidence of such insurance in response to email, mail and telephone requests for such evidence.

I find the allegation that Ms Chen is unsuitable to hold a licence as an insurance agent to be established by virtue of her failure to maintain errors and omissions insurance and her failure to facilitate an examination.

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

Decision:

I have found that Ms Chen is unsuitable to hold a licence as a life insurance agent.

Suitability is one of the requirements under the Insurance Act to hold a licence as 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 Chen 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 Chen has not requested a hearing, there are no explanations for her behaviour, nor is there any demonstrated interest in a 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 refusal of the application made by Ms Chen for a licence as an insurance agent.

ORDER

Accordingly, the application for a life insurance agent licence by Lei Chen is hereby refused by this order.

Dated at Toronto, this ninth day of June, 2014

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. Chen failed to comply with the statutory requirement to maintain errors & omissions insurance ("E&O") while licensed. From February 1, 2012 to May 27, 2013, Chen did not have a valid E&O policy.
2. Also, Chen failed to facilitate an investigation by the Superintendent as required by sections 31(1)(c), 443(1)&(2) of the *Insurance Act* (the "Act"), R.S.O. 1990, c. I.8 of whether she was in compliance with the requirement to maintain appropriate errors and omissions insurance with extended coverage for losses resulting from fraudulent acts.
3. Chen's failure to comply with the statutory requirements to maintain E&O insurance and to facilitate an investigation by the Superintendent afford reasonable grounds for belief that she is not a suitable person to hold a life insurance and accident and sickness insurance agent licence in Ontario.