

Tony Fung
Registration Number: D16258
Toronto, Ontario

HEARING DATE: March 10, 2011

MISCONDUCT: Ont. Reg. 991, ss. 14(1) and 16(4-1)

PARTICULARS OF THE COMPLAINT:

Under letter dated March 24, 2010, the Principal Broker of an insurance brokerage reported to RIBO that following their termination of Tony Fung from the brokerage, they conducted an audit of his portfolio. It was during this process that they discovered two files that required further investigation.

A company insured under an insurance company for the term of July 23, 2009 to July 23, 2010 was invoiced for the renewal on August 3, 2009. A cheque was issued by the insured on July 21, 2009 made payable to an advisory company noting "Comm. Insurance" on the cheque face.

Another client has a rooming house insured under another insurance company for the period of January 22, 2009 to January 22, 2010. The client was invoiced on March 9, 2009. The records indicate that two cheques were issued by the insured; one dated January 23, 2009 payable to an advisory company for \$5,464.80 and one dated February 18, 2009 for \$5,086.80 payable to Mr. Fung's previous employer brokerage.

DISCIPLINE COMMITTEE'S DISPOSITION:

Mr. Fung was a registered insurance broker in the Province of Ontario during the period covered by the charges. Evidence was introduced that the business address on file with RIBO is in fact a mattress factory, a fact which only becomes known during the attempts at service of the Notice of Hearing upon Mr. Fung. As a RIBO member is required under s. 28 of the RIB Act, and as pursuant to s. 28(2), any legal process, any notice or document served at the address shall be deemed to have been served personally, we accept that Mr. Fung has been properly served. The Discipline Committee accepted the Affidavit of Service as sworn by the process server.

The Discipline Committee finds that it has jurisdiction to hear this matter as the events in question occurred during the time that Tony Fung was registered with RIBO.

The Discipline Committee heard evidence brought forward by Counsel for RIBO, including the oral testimony of the principal broker of Mr. Fung's former employer with whom Mr. Fung was employed, who discussed instances of Mr. Fung receiving money from clients. Rather than the monies paid to his former employer brokerage, the cheques were made out to an advisory company. The Discipline Committee also heard the evidence of a client of Mr. Fung through a translator that he was instructed by Mr. Fung to prepare cheques in the name of both the former employer brokerage and the advisory company, splitting the full amount for the insurance premiums between the two payees. The Discipline Committee found the evidence of both the client and the principal broker of Mr. Fung's former employer to be credible on all counts. The Discipline Committee therefore ordered:

- (a) That the Certificate of Registration of Tony Fung is hereby revoked effective immediately.
- (b) That a recommendation be made to the Qualification and Registration Committee that they not consider any application for reinstatement by Tony Fung for a period of five years, commencing from the date of the Order.
- (c) That Tony Fung pay a fine in the amount of \$5,000.00 made payable to the Minister of Finance and to be received in RIBO's offices by no later than April 10, 2011.