

**CAUTION: While the information contained below is public, members should take caution that inappropriate use of this information may be considered to be an act of misconduct**

**Noel Francine Smith  
Registration Number: R10970  
Toronto, Ontario**

**HEARING DATE: May 22, 2008**

**MISCONDUCT: Ont. Reg. 991, ss. 15(6), 16(4)1 and 2, 4(i)(ii)**

**PARTICULARS OF THE COMPLAINT:**

Noel Francine Smith failed to abide by the Regulations as set out above in that on January 2, 2006, Ms. Smith and her client met to finalize payment arrangements for the client's commercial automobile and liability renewal policies. The automobile insurance policy renewed on December 24, 2005 at an annual cost of \$12,087.00. The down payment was calculated to be \$2,680.55. The liability policy renewed on January 23, 2006 at an annual cost of \$8,550.00 plus pst. The down payment was calculated to be \$2,113.53. In addition, there was an amount due of \$234.00 for an endorsement done previously. According to Ms. Smith, the client was advised of a consulting fee of \$2,000.00 for matters other than involving general insurance and provided with a corresponding invoice. The amount due by the client totaled \$7,028.08. The client only had one cheque with him. For reasons that could not be explained by Ms. Smith, she instructed her client to make out the cheque for \$10,000.00 made payable to a brokerage in her name and not the brokerage of record. Noel Francine Smith stated in a letter to RIBO that at that time she thought it was the easiest way to handle the payments. In turn, Ms. Smith issued a cheque to the brokerage of record in the amount of \$4,794.08 which represented the down payments on both policies and the outstanding endorsement amount. The credit balance left with Ms. Smith was \$2,971.92. According to Ms. Smith the credit was left on her client's account with the brokerage in her name. No discussions were made with the client at the time regarding his overpayment.

On October 4, 2006, the client visited the brokerage of record and Noel Francine Smith was not there. The client left two cheques for \$1,367.00 each dated October 4, 2006 and November 1, 2006. Ms. Smith did not know what the cheques were for and despite the credit balance she held in the account of the brokerage in her name, she deposited the two additional amounts into the same brokerage account as well. When questioned as to why he made these two payments, the client explained that he thought it paid for the increase of his liability amount from \$2,000.00 to \$5,000.00.

The client felt the need to approach a new broker regarding his insurance needs. He was unsure of his coverages and their cost. When the new broker approached Noel Francine Smith to provide the client with a summary, she provided the client with an account summary under the brokerage in her name and not the brokerage of record.

Brokers with non-active registrations are reminded each year by letter from RIBO that a "non-active firm will not hold itself out or advertise by means of advertisements, cards, circulars, letterhead, signs or be associated in any way with the general public in the trading of general insurance." Ms. Smith was not authorized to hold trust funds. The client cancelled his policies. He ultimately received two refund cheques, one from the brokerage of record for \$2,381.19 and one from Noel Francine Smith for \$5,705.00. No explanation accompanied either cheque.

#### **DISCIPLINE COMMITTEE'S DISPOSITION:**

The Discipline Committee found that was sufficient evidence in support of the plea of guilty and found that Noel Francine Smith was guilty of misconduct as alleged therein and ordered:

- (a) That a recommendation be made to the Qualification and Registration Committee that the Certificate of Registration of Noel Francine Smith be suspended for sixty (60) days effective immediately, and they not consider any reinstatement by Noel Francine Smith until after July 22, 2008.
- (b) That Noel Francine Smith pays a fine made payable to the Minister of Finance in the amount of \$1,000.00 and to be received by RIBO no later than August 22, 2008.