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FSCO File No. AB041-2007

Superintendent of Financial Services

Regarding a hearing concerning the suspension or revocation of the life insurance agent licence of Jeffrey Seguin

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

DECISION

Introduction:

Pursuant to a Notice of Hearing dated August 26, 2007, an Advisory Board was duly appointed under section 393 (9) of the Act. The hearing was conducted on October 18, and December 6, 2007.

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

Findings of Fact:

The Advisory Board found the third allegation to be established. The Advisory Board found the second allegation not to be established and the first allegation to be established in part. While not explicitly stated, it is apparent that no findings of unsuitability to hold a licence as an insurance agent were made against Mr. Seguin, notwithstanding the findings of incompetence or untrustworthiness. No further allegations were made at the hearing. I hereby adopt the findings of fact of the Advisory Board.

Recommendation of the Advisory Board

The Advisory Board recommended that:

1. Mr. Seguin's licence be suspended for a period of three months.
2. Following the termination of his suspension, Mr. Seguin be supervised for a period of one year by a person acceptable to the Commission.
3. Mr. Seguin attend and successfully complete:

- a. An insurance industry approved course in Compliance and
- b. An insurance industry approved course in Ethics.

The Advisory Board made recommendations concerning courses and an acceptable supervisor.

The Advisory Board considered mitigating factors. These included his actions not being wide spread, and a record without other contraventions of the Insurance Act, and the influence of other individuals on him during an early stage in his career as an insurance agent. As aggravating factors, the Advisory Board identified that Mr. Seguin financially benefited from the transactions in the short term, failed to follow his client's instructions, mislead his client about contact information at the insurance company, and the fact that a several policies were involved over a period of two years.

The Advisory Board stated that the training and supervision "will provide Mr. Seguin with the required knowledge as well as the exposure to a supervisor approved by the Commission who will ensure that any errors of this relatively inexperienced agent are corrected." The Advisory Board concluded by stating " that a suspension is required to impress on Mr. Seguin the seriousness of the regulatory role fulfilled by the Commission and the standard of conduct expected of agents."

Decision:

The Advisory Board has found that Mr. Seguin provided false information to the Commission and demonstrated incompetence or untrustworthiness in the transaction of insurance business.

The Advisory Board has not found Mr. Seguin's inappropriate conduct to be pervasive in his character and accordingly recommended that Mr. Seguin be allowed to continue in the insurance industry after discipline and with further training and supervision. In other cases, Advisory Boards have found that the inappropriate conduct was pervasive in the character of the agent and much more serious penalties were recommended.

The Advisory Board concluded that two matters warranted a penalty. The first is providing false information to the Commission and the second is failure to follow his client's reasonable instructions on several occasions.

I agree that a penalty for making a false statement on an application of a life insurance life is necessary to ensure the integrity of the licensing system. Effective and efficient regulation of agents requires that agents are truthful in their applications for their life insurance licences. False or misleading information undermines the regulatory system and shows

disrespect for regulation. Clients must be able to give direction to their agents and expect the instructions to be executed, and Mr. Seguin's actions also warrant a penalty. Since there is no finding by the Advisory Board that Mr. Seguin is unsuitable to be an insurance agent, the appropriate penalty is a period of suspension. I agree with the Advisory Board that a period of suspension of three months is appropriate. This is closer to the bottom end of the range of suspensions that have been ordered and reflects that while there are two matters that warrant penalty, Mr. Seguin's actions were limited in scope.

The Advisory Board's recommendation also includes two education courses and supervision. I agree. These recommendations are designed correct the inappropriate behaviour and reduce the risk of repetition.

Accordingly I hereby order:

1. Mr. Jeffrey Seguin's insurance agent licence be suspended for a period of ninety days commencing March 1, 2008.
2. Mr. Jeffrey Seguin satisfactorily complete a course about compliance and a course about ethics subject to the following conditions:
 - a. Mr. Seguin select the two courses and submit them for approval by the Superintendent by June 30, 2008.
 - b. Mr. Seguin pay for the approved courses.
 - c. Mr. Seguin provide to the Superintendent evidence of successful completion of the two approved courses by December 31, 2008.
3. Mr. Jeffrey Seguin be supervised by a supervisor approved by the Superintendent for a period of one year commencing the day after completion of his period of suspension subject to the following conditions:
 - a. Mr. Seguin select a supervisor and submit the name of the supervisor and his or her resume to the Superintendent by May 1, 2008.
 - b. Subject to written approval of the supervisor proposed by Mr. Seguin by the Superintendent, such approval not to be unreasonably withheld, Mr. Seguin will arrange for his supervisor to provide a signed undertaking to the Superintendent that he or she will review all insurance applications prepared by Mr. Seguin and will report in writing to the Superintendent in December 2008 and June 2009 that the business on those applications in those six month periods complied with the law and good business practice.
 - c. Mr. Seguin shall have the right to substitute supervisors subject to written approval by the Superintendent, such approval not to be unreasonably withheld

Dated at Toronto, this 4th day of February 2008.

Grant Swanson
Executive Director,
Licensing and Market Conduct Division
by delegated authority from
the Superintendent of Financial Services

SCHEDULE 1

SCHEDULE 1

The allegations referred to in the Notice of Hearing are as follows:

1. Jeffrey Seguin is not suitable to hold a licence as a Life Agent because he has engaged in dishonest acts and practices, and has demonstrated incompetence or untrustworthiness to transact the insurance agency business for which his licence has been granted.
2. Jeffrey Seguin violated s. 439 of the *Insurance Act*, R.S.O. 1990, c.l.8, as well as s. 17(c) of Regulation 347/04 of the *Insurance Act* by making false and misleading statements or representations when he dishonestly generated insurance policies in the name of a client on behalf of Clarica Financial Services Incorporated in 2003 and 2004.
3. Jeffrey Seguin directly or indirectly furnished false information to the Commission by falsely stating on his licence renewal application on October 5, 2006 that he had never been successfully sued or that a complaint had never been made against him to a regulatory body in any province, territory, state, or country that was or is, based in whole or in part, on fraud, theft, deceit, misrepresentation, forgery, or similar conduct; or based in whole or in part, on professional negligence or misconduct. This act was contrary to s. 447 (2)(a) of the *Insurance Act*.
4. Such other and further allegations as counsel for the Commission may advise.