

Superintendent of Financial Services

Regarding the *Insurance Act*, R.S.O. 1990, c.1.8, as amended (the "Act"), in particular, sections 393(9) – 393(11)

AND REGARDING Michael S. Leigh, applicant for life insurance agent licence

DECISION and ORDER

Introduction:

A Notice of Opportunity for Hearing dated November 23, 2012 (the Notice) informed Michael S. Leigh of allegations against him and the opportunity for a hearing before an Advisory Board to consider whether to issue him a licence as a life insurance agent. The Notice advised Mr Leigh 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 Leigh was also advised that such decision could include refusal of his application for a licence as a life insurance agent.

I have received an affidavit from Therese Brennan-Hunt, Investigator at the Commission that the Notice was sent by registered mail and regular mail to the address on file at the Commission. Canada Post has confirmed successful delivery. The affidavit further states that no request for a hearing was received. I am satisfied that the Notice was properly served in accordance with the provisions of the Insurance Act and that Mr Leigh did not request a hearing.

A copy of the allegations is attached to this Decision.

The Evidence:

Since Mr Leigh 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. Mr Leigh applied for a licence as a life insurance agent on August 25, 2008. Mr Leigh stated in his application that no complaint had been made against him to a regulatory body and that he had not been subject to investigation or discipline by a regulatory body. At the time of the application he had already met with investigators from the Investment Dealers Association, a securities regulator at that time. Three complaints involving unauthorized activity in client accounts had been made to the Investment Dealers Association.

Findings of Fact

I find that the two allegations are established. Mr Leigh is not suitable to receive a licence as a life insurance agent for the following reasons.

Mr Leigh is not of good character as demonstrated by his unauthorized activity in client accounts and his failure to disclose the investigation by the Investment Dealers Association.

Mr Leigh has an unsatisfactory record in business by virtue of the discipline imposed by securities regulators on matters related to his character.

Mr Leigh took advantage of vulnerable clients and was not truthful in dealing with the Commission.

Mr Leigh demonstrated untrustworthiness as demonstrated by his unauthorized trades in client accounts.

In the absence of testimony by Mr Leigh, I am unable to consider any explanations for his behaviour or mitigating circumstances.

Decision:

I have found that Mr Michael Leigh is unsuitable to be licensed as a life insurance agent.

As a result, I must deny his application for a licence as a life insurance agent.

ORDER

Accordingly, the application for a life insurance agent licence by Mr Michael Leigh is hereby denied by this order.

Dated at Toronto, this twenty-fourth day of October 2013

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. Leigh has demonstrated that he is unsuitable to transact business as a life insurance agent, contrary to Regulation 347/04, in the following ways:
 - a. Contrary to s.4(1)(a), Leigh is not of good character and reputation, but instead has a record of professional misconduct which led to his being investigated and sanctioned by the Investment Industry Regulatory Organization of Canada (“IIROC”).
 - b. Contrary to s.4(1)(c), Leigh has an unsatisfactory record in business, having made unauthorized and unsuitable trades with client accounts on multiple occasions.
 - c. Contrary to s.4(1)(i), Leigh is an unsuitable licensee, having been manipulative and deceptive towards vulnerable clients, and having failed to deal with FSCO in an honest manner.
 - d. Contrary to s.8(b), Leigh made a material misstatement or omission in the application for the licence when he failed to disclose the IIROC matter on his application, and
 - e. Contrary to s.8(d), Leigh demonstrated untrustworthiness to transact insurance agency business by engaging in conduct unbecoming or detrimental to the public interest, in violation of IIROC Association By-Law 29.1.
2. Leigh has demonstrated that he is untrustworthy in dealing with regulatory agencies, as evinced by his failing to disclose IIROC’s findings of misconduct in his FSCO application.
3. Such further allegations as counsel for FSCO may advise.