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Bulletin

No.G-08/92

- General

Insurance Agents and Adjusters

This is the first in a series of quarterly reports including both Superintendent's decisions based on advisory board hearing recommendations and Provincial Offences Act prosecutions.

HEARINGS

An advisory board assists the Superintendent of Insurance in determining the granting or refusal of a new licence or the possible revocation or suspension of an existing licence.

The board considers evidence presented by the applicant or agent as well as that put forward by counsel for the Commission.

During these two quarters, a total of 12 hearings were scheduled. Eight were completed and four were cancelled when sponsors withdrew support. In three cases, the board recommended in favour of the applicant or agent. The remaining five were disposed of as follows:

Life agent applicant:	**Kenneth G. Short (Cambridge) sponsored by Primerica Life Insurance Company of Canada**

Advisory board hearing:	**Oct. 9, 1991**
Superintendent's Decision:	**Application refused**

Kenneth Short's licence application was refused on Dec. 12, 1991 by the Superintendent of Insurance. His suitability was questioned because of a disclosed criminal conviction in 1984 for trafficking in narcotics and his failure to disclose a conviction in 1981 for possession of a narcotic. Mr. Short provided false and conflicting explanations for not disclosing one of the criminal convictions and was not found believable by the panel. In addition, his convictions are of a serious nature.

Life agent applicant:	**Robert G. Hanes (Vankleek Hill) sponsored by Prudential Insurance Company of America**
Advisory board hearing:	**Nov. 14, 1991**
Superintendent's Decision:	**Application refused**

Robert Hanes' licence application was refused. His suitability to hold a licence was questioned because of a disclosed criminal conviction in 1990 for theft under $1,000. The Superintendent decided on Feb. 11, 1992 to refuse the application. The panel did not find Mr. Hanes' version of the events believable mainly because of inconsistent statements he gave to the Commission investigator. There were also inconsistencies in his testimony at the hearing. It was decided Mr. Hanes should not be put in a position of trust.

Superintendent's order:	**Agent (Stouffville) of Industrial-Alliance Life Insurance Company**
Date:	**November 26, 1991**

An agent withdrew his application for renewal of his life licence as part of a settlement. His suitability was in question because, in Sept. 1990, the agent was sentenced to six months in jail for fraud exceeding $1,000. The agent had appropriated for his own use $78,500 belonging to a client. Before sentencing, the agent made full restitution, including interest. Should this individual apply for licensing in the future, a suitability hearing will be required.

Superintendent's order:	**Agent Paul C. Gold (Willowdale) sponsored by Aetna Life Insurance Company of Canada**
Date:	**January 15, 1992**

A Superintendent's order found Paul C. Gold unsuitable to continue to hold a licence. His suitability was questioned after Great-West Life Assurance Company, for whom he was previously an agent, alleged he unlawfully used proceeds from a contract for life insurance for his own use without authority or direction from the policyholder. Mr. Gold has surrendered his licence and has agreed never to act as an insurance agent or seek to be relicensed in Ontario. In addition, he was charged with unfair and deceptive practices contrary to Sections 393, 394, and 412 of the Insurance Act. He pleaded guilty Dec. 6, 1991, and was fined $2,000 in provincial court.

Life agent:	**Cameron R. W. Hawthorne (Caledonia) sponsored by American Income Life Insurance Company**
Advisory board hearing:	**January 29, 1992**
Superintendent's decision:	**Licence suspended (9 months)**

The Superintendent has suspended Cameron Hawthorne's licence. His suitability was questioned following allegations that he submitted false applications for insurance while he was a sponsored agent of London Life Insurance Company. The Superintendent accepted the advisory board recommendation and suspended Mr. Hawthorne's licence for nine months ending Nov. 10,1992. The decision, dated Feb. 10, 1992, also required that Mr. Hawthorne submit a new application for licensing after the suspension and that he must successfully write the life and accident and sickness examinations. Upon successful readmission as a licensed agent, Mr. Hawthorne will be on probation for six months with his sponsor providing a progress and performance report to the Superintendent every two months.

PROSECUTIONS

There were 11 prosecutions in these two quarters. One was dismissed, one was withdrawn while the 10 others were disposed of as follows:

Charge:	**Acting as an insurance agent without required licence**
Against:	**Jeff G. Reddon (Whitby) sponsored by Constitution Insurance Company of Canada**
Verdict:	**Guilty**

Jeff G. Reddon, pleaded guilty in provincial court on Nov. 19, 1991 to the charge of acting as an insurance agent without a required licence, contrary to the Section 393(23) of the Insurance Act. He had been selling insurance and receiving commissions while waiting to pass the Ontario Insurance Commission's qualifying examination. He was fined $200. Mr. Reddon's application for licensing was not pursued.

Charge:	**Paying commissions to unlicensed employee**
Against:	**Constitution Insurance Company of Canada**
Verdict:	**Guilty**

The Constitution Insurance Company of Canada pleaded guilty in provincial court on Nov. 19, 1991 to the charge of paying commissions to an employee who was not licensed as an insurance agent, contrary to the Insurance Act, Section 403(1). Two senior officials of the company permitted an applicant who had not yet passed his qualifying examination to sell insurance and receive commissions. The company was fined $2,500.

Charge:	**Unfair and deceptive business practices**
Against:	**Agent Paul C. Gold (Willowdale) sponsored by Aetna Life Insurance Company of Canada**
Verdict:	**Guilty**

Please refer to page 2 for details.

Charge:	**Furnishing false information**
Against:	**Brian L. Rawn (Owen Sound) sponsored by Commercial Union Life Assurance Company of Canada**
Verdict:	**Guilty**

Brian L. Rawn pleaded guilty in provincial court on Dec. 10, 1991 to the charge of furnishing false information to the Ontario Insurance Commission in his application for a life insurance agent's licence. He failed to disclose a 1979 conviction for possession of stolen property, a 1982 conviction for possession of a narcotic, a 1983 conviction for impaired driving, a 1983 conviction for possession of a narcotic, and a 1989 conviction for impaired driving. He was fined $250 and given 30 days to pay. Mr. Rawn withdrew his application for licensing.

Charge:	**Furnishing false information**
Against:	**George Flutur (Hamilton) sponsored by Primerica Life Insurance Company of Canada**
Verdict:	**Guilty**

George Flutur was found guilty in provincial court on Dec. 20, 1991 of the charge of furnishing false information to the Ontario Insurance Commission in his application for a life insurance agent's licence, contrary to the Insurance Act. Mr. Flutur failed to disclose a pending criminal offence proceeding for theft, for which he was subsequently acquitted. He was found guilty and fined $200 with 60 days to pay. Mr. Flutur's application for licensing was not pursued.

Charge:	**Swearing to a pretend affidavit by a Commissioner for taking oaths**
Against:	**Anita D. Garyfalakis (Scarborough) sponsored by Primerica Life Insurance Company of Canada**
Verdict:	**Guilty**

Anita D. Garyfalakis pleaded guilty in provincial court on Jan.13, 1992 to the charge of swearing to a pretend affidavit. She was charged following an investigation into a non-disclosure of a criminal record by a life insurance agent applicant. Ms. Garyfalakis was found guilty and received an absolute discharge. As a result of the finding her commission was also withdrawn under the Commission for Taking Affidavits Act. Ms.Garyfalakis is no longer licensed to sell insurance in Ontario.

Charge: **Paying commissions to unlicensed employee**

Against: **The Mutual Group**

Verdict: **Guilty**

The Mutual Group of Waterloo pleaded guilty in provincial court on Jan. 29, 1992 to a charge of paying commissions to an unlicensed employee, contrary to the Insurance Act, Section403(1). The company was fined $3,000. The three employees of the company who were involved were disciplined internally, and company procedures have been reviewed to ensure that problems of a similar nature do not occur again. The unlicensed agent is being charged separately.

Charge: **Furnishing false information**

Against: **John A. Sutton (Niagara Falls) sponsored by London Life Insurance Company**

Verdict: **Guilty**

John A. Sutton pleaded guilty in provincial court on Feb.19,1992 to a charge of furnishing false information to the Ontario Insurance Commission in his application for a life insurance agent's licence. The charge arose as a result of the applicant's failure to disclose a 1989 conviction for break and enter. He was found guilty and fined $500 with three months to pay. Mr. Sutton's application for licensing is currently inactive.

Charge: **Furnishing false information**

Against: **Jeremy L. Westcott (Oakville) sponsored by Primerica Life Insurance Company of Canada**

Verdict: **Guilty**

On March 20, 1992, Jeremy L. Westcott pleaded guilty in provincial court to the charge of furnishing false information to the Ontario Insurance Commission in his application for a life insurance agent's licence, contrary to the Insurance Act. He failed to disclose a 1990 conviction for possession of stolen property and uttering a forged document. He was found guilty and fined $600 with three months to pay. Mr. Westcott's sponsor withdrew support and his licence application was declined.

Donald C. Scott

Commissioner

May 19, 1992

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