Bulletin

No. G-03/95

- General

Prosecutions and Hearing Decisions - Second Half of 1994

Prosecutions

There were two agent, and seven company prosecutions during the second half of 1994. The cases were disposed of as follows:

Charge: **Breaching the Take-All-Comers provisions of the Facility Association's Articles contrary to the *Compulsory Automobile Insurance Act***

Against: **Economical Mutual Insurance Company**

Verdict: **Guilty**

Economical Mutual Insurance Company pleaded guilty in provincial court on August 15, 1994 to the above charge. The company had issued notices to some of its brokers stating that it would not be writing new automobile insurance business for a period of time. By so doing, the company was in violation of the requirements under the Take-All-Comers rules. The company was fined $20,000. This situation has since been rectified.

Charge: **Furnishing false information**

Against: Leon D. Bobb (Brampton) formerly sponsored by Abbey Life Insurance Company of Canada

Verdict: Guilty

Leon Bobb pleaded guilty in provincial court on August 23, 1994 to a charge of providing false information to the Ontario Insurance Commission in his application for a life insurance agent's licence. Mr. Bobb had completed three separate applications for licensing since 1992. Each of the applications differed in the information provided, and in the first two applications, Mr. Bobb did not disclose a 1986 conviction for theft under $1,000. He was fined $350. Mr. Bobb is not currently licensed.

Charge: Filing 1993 annual return late

Against: Coronation Insurance Company Limited

Verdict: Guilty

Coronation Insurance Company Limited pleaded guilty in provincial court on August 30, 1994, to a charge of filing its 1993 annual return late, contrary to Revised Regulations of Ontario, 1990, Regulation 691. The company was fined $7,500.

Charge: Filing 1993 annual return late

Against: The Orion Insurance Company PLC

Verdict: Guilty

The Orion Insurance Company PLC pleaded guilty in provincial court on August 30, 1994, to a charge of filing its 1993 annual return late, contrary to Revised Regulations of Ontario, 1990, Regulation 691. On the basis of the company's past record of three prior convictions for late filing, a fine of $20,000 was imposed.

Charge: Filing 1993 annual return late

Against: Francona Ruchversicherungs-Aktien-Gesellschaft

Verdict: Guilty

Francona Ruchversicherungs-Aktien-Gesellschaft, a reinsurer, pleaded guilty in provincial court on August 30, 1994, to a charge of filing its 1993 life operation annual return late, contrary to Revised Regulations of Ontario, 1990, Regulation 691. The company was fined $8,500.

Charge: Paying commissions to unlicensed person

Against: Seaboard Life Insurance Company

Verdict: Guilty

Seaboard Life Insurance Company pleaded guilty in provincial court on August 31, 1994, to the charge of paying commissions to a person not licensed to sell insurance. Company officials allowed an agent with an expired licence to sell insurance and receive commissions. The company was fined $15,000. The unlicensed agent, Norman McKinney, was charged separately.

Charge: Acting as an unlicensed agent

Against: Norman T. McKinney (Barrie) sponsored by Seaboard Life Insurance Company

Verdict: Guilty

Norman McKinney pleaded guilty in provincial court on August 31, 1994 to a charge of acting as an insurance agent without a required licence. He sold insurance and received commissions for approximately six years after his licence was terminated July 1, 1987. He was fined $12,000. Mr. McKinney currently holds a valid licence.

Charge: Late notice of termination

Against: The Prudential Assurance Company Limited

Verdict: Guilty

The Prudential Assurance Company Limited pleaded guilty in provincial court on September 13, 1994, to a charge of failing to submit a notice of termination of agent to the Superintendent of Insurance within the required statutory time frame. The company gave the Superintendent an undertaking to implement internal procedures to ensure such a breach was not repeated; to bring these procedures to the attention of staff; and to advise the Superintendent of their implementation. Although the Commission did not request a financial penalty given the company's undertaking, the Court nevertheless levied a nominal fine.

Charge: Failing to pay accident benefits

Against: Canadian General Insurance Company

Verdict: Guilty

Canadian General Insurance Company pleaded guilty in provincial court on September 27, 1994, to one count of failing to pay accident benefits on a timely basis contrary to Revised Regulations of Ontario, Regulation 672 of the Insurance Act. The company was fined $25,000.

Hearing decisions

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 Ontario Insurance Commission (OIC). The following decisions were made by the Commissioner or Superintendent:

Life agent / agency:	**James W. Davies / Jim Davies Insurance Agencies Limited (Newmarket) formerly sponsored by The National Life Insurance Company of Canada**
decision:	**Commissioner's appeal Licence suspended as described below**

James Davies' hearing before an Advisory Board was heard between October 4, 1993 and December 22, 1993. The report was received by the Superintendent on July 22, 1994.

Mr. Davies' licence was suspended by the Superintendent on September 1, 1994. His suitability to hold a licence was at issue when it was alleged that he had engaged in business practices that demonstrated his untrustworthiness. The Superintendent adopted the findings of the Advisory Board and held that Mr. Davies had engaged in unfair and deceptive practices that included: having clients sign blank documents; signing clients' signatures on documents; failing to follow client instructions; misleading clients in the solicitation of insurance; engaging in systematic replacement of policies; twisting policies; and failing to follow the proper procedures relating to replacement of policies of insurance.

Mr. Davies appealed the Superintendent's decision to the Commissioner. On December 16, 1994, the Commissioner imposed a one-year suspension, commencing January 1, 1995. The corporate licence is also suspended for this same period of time as Mr. Davies is the sole shareholder of Jim Davies Insurance Agencies Limited.

After completion of the suspension, Mr. Davies will be required to submit a new application for a life insurance agent's licence and will have to successfully rewrite the qualifying examinations. Upon successful re-admission as a licensed agent, during the first 12 months after being granted a licence, Mr. Davies will be required to provide evidence of attendance at a training class or seminar on insurance agent ethics and practices; submit a quarterly report on his activities as an agent; and submit to an audit of his practice by the Superintendent.

Life agent:	**Craig B. Smith (Mississauga) formerly sponsored by Abbey Life Insurance Company of Canada**
Advisory Board hearing:	**May 2, 1994**
Superintendent's decision:	**Application for transfer / revival of licence refused**

Craig Smith's application to transfer his life insurance agent's licence was refused by the Superintendent on September 27, 1994. His suitability to hold a licence was questioned following allegations that he forged signatures on policy documents and commission cheques while he was a sponsored agent and district manager of Mutual of Omaha Insurance Company.

The Superintendent accepted the Advisory Board's recommendation and suspended Mr. Smith's licence until January 1, 1995. Mr. Smith will be required to submit a new application for licensing after the suspension and he must successfully rewrite the qualifying examinations.

Upon successful readmission as a licensed agent, Mr. Smith's sponsor will have to provide progress and performance reports to the Superintendent every three months for the first year

that he is relicensed. He will also have to enrol and complete the Life Underwriter training course, Parts 1 & 2, with proof of enrolment and completion provided to the Superintendent. Mr. Smith is currently unlicensed.

Life agent:	**Larry I. Kleinmintz (Thornhill) sponsored by North American Life Assurance Company**
Advisory Board hearing:	**June 14, 1994**
Superintendent's decision:	**Licence revoked**

Larry Kleinmintz's licence was revoked by the Superintendent on August 30, 1994. His suitability to hold a licence was questioned because of his unsatisfactory record in a business in which he had been previously engaged.

The Advisory Board found that Mr. Kleinmintz's past and current conduct makes him unsuitable to retain a life insurance agent's licence. The Superintendent accepted the Advisory Board's recommendation and revoked Mr. Kleinmintz's licence for a period of not less than one year, after which time he is at liberty to submit a new application for a life insurance agent's licence. Mr. Kleinmintz has appealed this decision to the Commissioner.

Life agent:	**Shelley L. Davies-Mcdowall (Newmarket) formerly sponsored by The National Life Insurance Company of Canada**
Advisory Board hearing:	**June 20, 1994**
Superintendent's decision:	**Licence revoked**
Commissioner's interim order:	**Superintendent's decision in effect**

Shelley Davies-Mcdowall's licence was revoked by the Superintendent on August 30, 1994. The Advisory Board held that she had engaged in unfair and deceptive practices. Ms. Davies-Mcdowall has appealed this decision to the Commissioner. The Commissioner issued an Interim Order suspending her licence effective November 16, 1994, pending her appeal hearing.

Grant Swanson

Acting Superintendent of Insurance

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