Bulletin

No. G-04/97

- General

Prosecution and Hearing Decisions - Second Half of 1996, First Quarter of 1997

Prosecutions

There were six agent prosecutions and two insurer prosecutions during the nine-month period between July 1, 1996 and March 31, 1997.

i. **Prosecutions - second half of 1996**

There were four agent prosecutions and no insurer prosecutions during this period. The cases were disposed of as follows:

Charge:	**Acting as a life insurance agent while unlicensed**
Against:	**Normand Riopelle (London) sponsored by The Canada LifeAssurance Company**
Verdict:	**Guilty**

Mr. Riopelle pleaded guilty in provincial court in London, Ontario on September 9, 1996 to a charge of acting as a life insurance agent while unlicensed. Although licensed for more than 20 years as a life insurance agent, Mr. Riopelle failed to ensure that his licence was properly renewed and in force from April 1, 1994 until May 30, 1995. During that period, Mr. Riopelle continued to sell life insurance products. A fine of $1,250 plus a $250 fine surcharge were imposed. He was given six months to pay the fine.

Charge: Furnishing false information

Against: Thomas Lewis (Ottawa) sponsored by Metropolitan Life Insurance Company of Canada

Verdict: Guilty

Thomas Lewis pleaded guilty in provincial court on September 9, 1996 to a charge of providing false information to the Ontario Insurance Commission (OIC) in his application for a life insurance agent's licence. He was fined $450 with six months to pay.

Charge: Acting as an insurance agent while unlicensed

Against: Peter Votskos (Richmond Hill), Level II Agent

Verdict: Guilty

Mr. Votkos pleaded guilty in provincial court on November 12, 1996 to acting as an insurance agent while his licence was not in force. Mr. Votskos terminated his contract with an insurer in December 1995, and accordingly, no longer had a sponsor for a Level 1 life insurance agent licence. Sponsorship is a requirement for a Level 1 life insurance agent licence. Mr. Votkos obtained a new sponsor and was licensed to sell insurance in June 1996. He was fined $500, plus a fine surcharge of $100, and given 60 days to pay.

Charge: Furnishing false information

Against: James Davies

Verdict: Guilty

After a trial held on December 3, 1996, Mr. Davies was found guilty of providing false information to the OIC in an application for a life insurance agent's licence. He failed to disclose that his mutual fund registration with the Ontario Securities Commission (OSC) had been suspended and later refused by the OSC. The Justice of the Peace did not accept Mr. Davies' explanation for the failure to disclose the information. The court fined him $500 plus a fine surcharge of $100, and given six months to pay. Mr. Davies does not currently hold a life insurance agent's licence.

ii. **Prosecutions - first quarter of 1997**

There were two insurer prosecutions and two agent prosecutions during this period. The cases were disposed of as follows:

Charge: Using rates not filed with the OIC

Against: COSECO Insurance Company

Verdict: Guilty

The company pleaded guilty in provincial court on February 4, 1997 to a charge of using motorcycle rates that had not been filed with the OIC, contrary to section 413 of the *Insurance Act* (*Act*). The court accepted the guilty plea and the joint submission that a $50,000 fine was appropriate in the circumstances. In addition to the fine, a 20% fine surcharge must also be paid by the company. COSECO will make restitution of the premiums that were paid by policyholders above the rates that the OIC had previously approved.

Charge: Using rates not filed with the OIC

Against: Co-operators General Insurance Company

Verdict: Guilty

The company pleaded guilty in provincial court on March 4, 1997 to a charge of using rates for automobile insurance on school buses that had not been filed with the OIC, contrary to section 413 of the *Act*. The court accepted the plea of guilty and the joint submissions that a $25,000 fine was appropriate. In addition the company must pay the 20% of the surcharge.

Charge: Furnishing False Information

Against: Gino Cortese (North York) sponsored by Mutual of Omaha Insurance Company

Verdict: Guilty

Mr. Cortese pleaded guilty in provincial court on March 4, 1997 to a charge of furnishing false information to the

OIC. Mr. Cortese provided false particulars about the circumstances around his conviction for assault in his application for a life insurance agent's licence. He was fined $400 and given six months to pay. Mr. Cortese's application for a licence was withdrawn by his sponsoring insurer.

Charge:	**Furnishing False Information**
Against:	**Frank Adams (Sarnia) sponsored by Primerica Financial Services Ltd.**
Verdict:	**Guilty**

Mr. Adams pleaded guilty in provincial court on January 7, 1997 to providing false information to the OIC in an application for an insurance agent's licence. In the application, he failed to disclose a pending criminal assault charge. He was fined $100. Mr. Adams' application for a licence was withdrawn by his sponsoring insurer.

Hearing decisions

An Advisory Board assists the Superintendent of Insurance in determining whether to grant or refuse a new licence or on the possible revocation or suspension of an existing licence for insurance agents and adjusters. The board considers evidence presented by the applicant or agent as well as that put forward by counsel for the OIC.

Insurance agents and adjusters may appeal decisions of the Superintendent of Insurance to the Insurance Commissioner. Commissioner's appeal hearings are conducted by the Commissioner or a person appointed by the Commissioner.

During the nine-month period from July 1, 1996 to March 31, 1997, three hearings were held: two Advisory Board hearings were held during the second half of 1996, and there was one Commissioner's Appeal hearing during the first quarter of 1997. One of the two Advisory Board hearings resulted in disciplinary action and is reported below, along with the decision of the Commissioner in regard to an appeal.

i. **Advisory Board hearing - second half of 1996**

Life agent:	**Rhoda Moldofsky (Toronto) sponsored by NN Life Insurance Company of Canada**

Advisory Board hearing:	**September 4, 1996**
Superintendent's decision:	**Licence suspended for two years (under appeal)**

A hearing was conducted over five days to consider the suspension or revocation of the agent's licence as a result of an investigation into her conduct while working for her former sponsoring insurer. The Advisory Board determined that the agent whited out and changed the birth date on an application for insurance, signed a policyholder's name to a change of beneficiary form, and applied dividends to be paid on account of a policy without the informed consent of the policyholder. The Advisory Board recommended that her licence be suspended for two years. The Superintendent accepted the recommendation.

The decision of the Superintendent was appealed to the Commissioner of Insurance.

ii. **Commissioner's Appeal hearing - first quarter of 1997**

Life Agent:	**Rhoda Moldofsky (Toronto) sponsored by NN Life Insurance Company of Canada**
Appeal hearing:	**February 4, 6 and 12, 1997**
Commissioner's decision:	**Suspension reduced to 18 months**

A hearing was held to consider an appeal by the agent from the decision of the Superintendent dated December 9, 1996 that suspended her licence for two years. On appeal, the period of suspension was reduced to 18 months. The Commissioner's appointee was of the view that the Superintendent and Advisory Board had used the agent's denial of responsibility as an aggravating factor in assessing the penalty.

Grant S. Swanson

Acting Superintendent of Insurance

May 9, 1997

Last Modified: 9/29/2005 4:48:34 PM

Financial Services Commission of Ontario
5160 Yonge Street
Toronto, ON M2N 6L9
1-800-668-0128
(416) 250-7250