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Bulletin

No. G-07/99

- General

Monitoring and enforcement report - including prosecution and hearing decisions - for second quarter 1999

The Financial Services Commission of Ontario's (FSCO) Monitoring and Enforcement bulletins report on its prosecution activities, the decisions arising out of the hearings it conducts, and other regulatory activities that help ensure consumer confidence in the financial services sectors that FSCO regulates -- insurance, credit unions/caisses populaires, loan and trusts, co-operatives and mortgage brokers. FSCO also regulates pensions; its monitoring and enforcement reports on this sector appear separately in FSCO's Pension Bulletins.

Under section 17 of the Insurance Act, as amended by the Financial Services Commission of Ontario Act, 1997, a party may appeal proposed or intended decisions of the Superintendent of Financial Services. In hearing appeals or reviews of these decisions, the Financial Services Tribunal (FST), an independent adjudicative body, determines all questions of fact or law. Beginning with this edition of FSCO's Monitoring and Enforcement bulletins, we will be publishing FST insurance decisions.

ACTIONS OF THE FINANCIAL SERVICES COMMISSION OF ONTARIO AND THE FINANCIAL SERVICES TRIBUNAL

RESULTS OF monitoring activities -- first step in the enforcement process

Re: Agents and Adjusters

FSCO undertakes a number of monitoring activities as part of its regulatory functions. It conducts police background checks on prospective agents, and also reviews complaints against agents made by other agents, insurers and policyholders. In addition, FSCO audits approximately 10 per cent of all life agent renewal applications to ensure they meet continuing education (CE) requirements. These checks, reviews and audits are the first step in the enforcement process. Most matters are resolved at this first step.

During the second quarter of 1999, the FSCO undertook the following:

- **Police Checks**

  A total of 1,229 police checks on the background of prospective agents were made with the Canadian Police Information Centre.

- **Complaints and Reviews**

  FSCO received 52 complaints about the conduct of agents for the second quarter April 1, 1999 to June 30, 1999. The subjects of the complaints included fraud, forgeries, misrepresentation, and agent misconduct.

Overview of Complaints

Complaints in progress, from end of first quarter 1999	81
Plus: *Complaints received* during second quarter, 1999	52
Less: *Complaints in progress* at end of second quarter, 1999	82
Complaint reviews **completed during second quarter, 1999**	**51**

Disposition of Complaint Reviews

Cases forwarded for investigation	15
Cases resolved	6
Licences surrendered	1
Cases closed	29

Total	**51**

Cases may be closed for a variety of reasons. The most common are: the issue raised is outside FSCO's jurisdiction; there is insufficient evidence to substantiate a complaint; or the complaint is unfounded.

- **Audits**

FSCO initiated 232 audits of life agents during the second quarter to ensure they met their CE requirements. As a result of the audits, five cases required enforcement action to be initiated.

INVESTIGATIONS -- second step in the enforcement process

As a follow up to its regular monitoring activities -- police background checks on prospective agents, the reviews of complaints received against agents, and audits of agents' compliance with CE requirements -- FSCO may decide that some matters need to be investigated. An investigation is the second step in the enforcement process. It is used where prosecution or Advisory Board hearings may be contemplated.

During the second quarter of 1999, FSCO undertook the following:

- **Investigations initiated**

A total of 54 cases were forwarded to Investigations. Of that total, 41 cases related to agents and adjusters, eight related to mortgage brokers, four related to insurance companies, and one related to credit unions.

Source of investigations

Agents

Complaints about agent conduct	12
Allegations of unsuitability of agents	1
Doing business without a licence in force	23
Continuing education audits	5
	41

Mortgage Brokers

Doing business without a licence in force	7
Failure to file return	1
	8

Insurance Companies

Doing business without a licence in force	2
Paying commissions to unlicensed persons	2
	4

Credit Unions

Complaints about credit union conduct	1
	1
	54

Outcome of investigations

A total of 48 cases were completed:

Charges laid in Provincial Offences court	3
Advisory Board Hearings held	8
Sponsorship of agent withdrawn	8
Superintendent's Orders issued	2
Letters of Censure issued	5
Closed files (no enforcement action warranted)	22
	48

Cases may be closed if there is insufficient evidence to support the allegations, or if the allegations are unfounded.

- **Letters of Warning**

During the second quarter, 252 Letters of Warning were issued to life agents who were late in applying for licence renewal.

- **Letters of Censure**

  Five Letters of Censure were issued to life agents who did not provide full disclosure of information on their licence applications.

- **Surrendered Licences**

  The details surrounding the surrendering of licences, indicated in the complaint statistics, are as follows:

  James D. Brewer agreed to surrender his Level II life agent licence following a complaint alleging that the agent had made misrepresentations in the sale of several policies of insurance.

- **Minutes of Settlement and Consent Orders**

  During the second quarter, 16 agents entered into Minutes of Settlement for non-compliance with legislated continuing education requirements, and two agents consented to orders revoking their licenses. The Director of the Licensing and Enforcement Division (the Director) has been delegated the authority by the Superintendent of Financial Services (Superintendent) to render licensing decisions.

Non-continuing Education Offences

Robert David Harrington	By an order, dated May 6, 1999, of the Director, this Level II agent's licence was revoked. The agent is alleged to have held himself out as an insurance agent during a period where his licence was suspended, operated without having the required errors and omission insurance coverage, and provided false information in his application for licensing. The agent voluntarily surrendered his licence, and consented to having said licence revoked.

Edward Scott Pollock	By an order, dated April 15, 1999, of the Director, this Level II agent's licence was revoked. The agent failed to place the interests of his clients first and admitted to misappropriating client funds and changing client information records. The agent voluntarily surrendered his licence and consented to having his licence revoked.

Continuing Education Offences

Edward Scott Pollock	By an order, dated April 15, 1999, of the Director, this Level II agent's licence was revoked. The agent failed to place the interests of his clients first and admitted to misappropriating client funds and changing client information records. The agent voluntarily surrendered his licence and consented to having his licence revoked.
C.A.	By an order, dated May 24, 1999, of the Director, this agent's licence will expire May 24, 2001, unless conditions specified in Minutes of Settlement related to continuing education are met. An appropriate accommodation for a disability was made.
Leslie Ballentine	By an order, dated June 30, 1999, of the Director, this agent's licence will expire December 3, 1999, unless conditions specified in Minutes of Settlement related to continuing education are met.

Alan Boyd	By an order, dated April 13, 1999, of the Director, this agent's licence would have expired June 8, 1999, unless conditions specified in Minutes of Settlement related to continuing education were met. Conditions were met.
Bernard Comtois	By an order, dated May 28, 1999, of the Director, this agent's licence would have expired September 15, 1999, unless conditions specified in Minutes of Settlement related to continuing education are met. Conditions were met.
Judith Hazell	By an order, dated June 4, 1999, of the Director, this agent's licence will expire January 14, 2000, unless conditions specified in Minutes of Settlement related to continuing education are met.
Eric Issac	By an order, dated April 27, 1999, of the Director, this agent's licence would have expired June 15, 1999, unless conditions specified in Minutes of Settlement related to continuing education were met. Conditions were met.
Ellen M. Johnson	By an order, dated April 27, 1999, of the Director, this agent's licence would have expired May 14, 1999, unless conditions specified in Minutes of Settlement related to continuing education were met. Conditions were met.

Michaela Landry	By an order, dated June 10, 1999, of the Director, this agent's licence would have expired September 15, 1999, unless conditions specified in Minutes of Settlement related to continuing education are met. Conditions were met.
Elizabeth MacDonald	By an order, dated April 29, 1999, of the Director, this agent's licence would have expired June 1, 1999, unless conditions specified in Minutes of Settlement related to continuing education were met. Conditions were met.
Armenag Melkonian	By an order, dated April 27, 1999, of the Director, this agent's licence would have expired July 1, 1999, unless conditions specified in Minutes of Settlement related to continuing education were met. Conditions were met.
Ward Morris	By an order, dated May 16, 1999, of the Director, this agent's licence would have expired July 15, 1999, unless conditions specified in Minutes of Settlement related to continuing education were met. Conditions were met.
Susan E. Muller	By an order, dated May 26, 1999, of the Director, this agent's licence would have expired July 7, 1999, unless conditions specified in Minutes of Settlement related to continuing education were met. Conditions were met.

Randal Noonan	By an order, dated May 6, 1999, of the Director, this agent's licence would have expired August 25, 1999, unless conditions specified in Minutes of Settlement related to continuing education are met. Conditions were met.
Fredrick Schneider	By an order, dated June 10, 1999, of the Director, this agent's licence would have expired August 3, 1999, unless conditions specified in Minutes of Settlement related to continuing education were met. Conditions were met.
Carolyn Simpson	By an order, dated April 15, 1999, of the Director, this agent's licence would have expired May 14, 1999, unless conditions specified in Minutes of Settlement related to continuing education were met. Conditions were met.
Don Slaunwhite	By an order, dated April 27, 1999, of the Director, this agent's licence would have expired July 2, 1999, unless conditions specified in Minutes of Settlement related to continuing education were met. Conditions were met.

PROSECUTIONS

INSURANCE

Charge:	**Working as an agent while unlicensed and holding out**
Against:	**Khalil Asmail o/a Easy Protect**
Verdict:	**Guilty**

On June 8, 1999, following a trial in Toronto provincial court, an ex-parte trial was held where Khalil Asmail was found guilty and convicted of working as an insurance agent while unlicensed, and of holding himself out as an agent by the use of signs, cards, circulars etc. Mr. Asmail was fined $75,000 on each count, together with a restitution order in the amount of $600, payable to one of the victims.

Charge:	**Working as an agent while unlicensed**
Against:	**Gordon B. Finney (Havelock) Level I agent sponsored by Imperial Life Assurance Company of Canada**
Verdict:	**Guilty**

On April 8, 1999, following a trial in Peterborough provincial court, Gordon Finney pleaded guilty and was convicted of practising as an insurance agent after his licence had expired. He was fined $500.

Charge:	**Paying commissions to unlicensed persons**
Against:	**The Imperial Life Assurance Company of Canada**
Verdict:	**Guilty**

On May 25, 1999, following a trial in Toronto provincial court, the Imperial Life Assurance Company of Canada pleaded guilty and was convicted of paying commissions to unlicensed persons. The company was fined $14,000.

MORTGAGE BROKERS

Charge:	**Late Filing of Financial Statements**
Against:	**Admore Financial Services Inc. (Downsview)**
Verdict:	**Guilty**

On April 20, 1999, in Toronto provincial court, Admore Financial Services Inc. was found guilty and convicted of late filing of audited financial statements as required under the Mortgage Brokers Act. The company was fined $400.

Charge:	**Late Filing of Financial Statements**

Against: **Canadian Home Income Plan Corporation o/a Canadian Home Income Plan (Toronto)**

Verdict: **Guilty**

On April 20, 1999, in Toronto provincial court, Canadian Home Income Plan Corporation was found guilty and convicted of late filing of audited financial statements as required under the Mortgage Brokers Act. The company was fined $200.

Charge: **Late Filing of Financial Statements**

Against: **Betty Crockett and Family Group (Niagara) Ltd. (St. Catharines)**

Verdict: **Guilty**

On April 13, 1999, in Toronto provincial court, Betty Crockett pleaded guilty on behalf of Family Group (Niagara) Ltd, and was convicted of late filing of audited financial statements as required under the Mortgage Brokers Act. She was fined $200.

Charge: **Late Filing of Financial Statements**

Against: **James A. Hester o/a Mortgage Services (Bolton)**

Verdict: **Guilty**

On April 13, 1999, in Toronto provincial court, James Hester pleaded guilty and was convicted of late filing of audited financial statements as required under the Mortgage Brokers Act. He was fined $200.

Charge: **Failure to File Financial Statements - Two counts**

Against: **Mandamus Management Inc. and R. Geoffrey Newbury**

Verdict: **Guilty**

On June 15, 1999, following a trial at Toronto provincial court, Mandamus Management Inc. and R. Geoffrey Newbury were found guilty and convicted of failing to file audited financial statements as required under the

Mortgage Brokers Act, for the years 1997 and 1998. The company and its president, Mr. Newbury, were each fined $350 per conviction, for a total of $1,400.

Charge:	**Late Filing of Financial Statements**
Against:	**Pace Mortgage Services Inc. (Toronto)**
Verdict:	**Guilty**

On April 20, 1999, in Toronto provincial court, Pace Mortgage Services Inc.was found guilty and convicted of late filing of audited financial statements as required under the Mortgage Brokers Act. The company was fined $200.

Charge:	**Failure to File Financial Statements**
Against:	**Douglas Pfeiffer o/a Spectrum Financial Services**
Verdict:	**Guilty**

On June 8, 1999, in Toronto provincial court, Douglas Pfeiffer was found guilty and convicted of failing to file audited financial statements for 1998 as required under the Mortgage Brokers Act. He was fined $500.

Charge:	**Late Filing of Financial Statements**
Against:	**Barbara A. Sharpe o/a Blackburn Mortgage Professionals (Brockville)**
Verdict:	**Guilty**

On April 13, 1999, in Toronto provincial court, Barbara Sharpe was found guilty and convicted of late filing of audited financial statements as required under the Mortgage Brokers Act. She was fined $200.

Charge:	**Late Filing of Financial Statements**
Against:	**S. Stern Financial Corporation (North York)**
Verdict:	**Guilty**

On April 20, 1999, in Toronto provincial court, S. Stern Financial Corporation was found guilty and convicted of late filing of audited financial statements as required under the Mortgage Brokers Act. The company was fined $500.

Charge: **Late Filing of Financial Statements**

Against: **Allan A. Shona o/a Allan Shona and Associates (Mississauga)**

Verdict: **Guilty**

On April 20, 1999, in Toronto provincial court, Allan Shona was found guilty and was convicted of late filing of audited financial statements as required under the Mortgage Brokers Act. He was fined $300.

Charge: **Failing to furnish records for inspection**

Against: **Sussman Capital Corp. (Barrie)**

Verdict: **Guilty**

On May 25, 1999, following a trial in Toronto provincial court, Sussman Capital Corp. pleaded guilty and was convicted of failing to furnish records for inspection as required under the Mortgage Brokers Act. The company was fined $2,000.

Charge: **Late Filing of Financial Statements**

Against: **Terra Nova Financial Services Inc. (Mississauga)**

Verdict: **Guilty**

On April 20, 1999, in Toronto provincial court, Terra Nova Financial Services Inc.was found guilty and convicted of late filing of audited financial statements as required under the Mortgage Brokers Act. The company was fined $400.

Charge: **Late Filing of Financial Statements**

Against: **Karen P. Zeiger o/a KPZ Financial (Mount Albert)**

Verdict: **Guilty**

On April 13, 1999, in Toronto provincial court, Karen Zeiger pleaded guilty and was convicted of late filing of audited financial statement as required under the Mortgage Brokers Act. She was fined $150.

HEARINGS

An Advisory Board assists in determining the granting or refusal of a new licence or 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 FSCO. The Director of the Licensing and Enforcement Division (Director) has delegated authority from the Superintendent of Financial Services (Superintendent) to render licensing decisions.

Life agent:	**Roger Bush (Ajax) Level II agent**
Advisory Board Hearing:	**May 5, 1999**
Decision:	**Licence Suspension if not in compliance by December 15, 1999**

An Advisory Board hearing was conducted in Toronto to consider the suspension or revocation of Mr. Bush's licence because of his failure to comply with the continuing education requirements and for making a material misstatement in a declaration that he had completed the required continuing education hours. In its report, the panel recommended that Mr. Bush be given the opportunity to make up any required continuing education credits, and that if he fails to provide the Commission with proof of completion of the additional credits, his licence be suspended. The panel reasoned that some consideration should be given to Mr. Bush's argument that persons in senior administrative positions be given some credit for those positions that require an individual to remain up-to-date on industry standards and advances.

By decision dated June 28, 1999, the Director accepted the findings of fact, and indicated that there were only subjective grounds upon which to grant additional CE credit. But for the fact that Mr. Bush honestly felt that persons in senior administrative positions should receive some CE credit for those positions, and that he presented some plausible arguments to the board that his activities qualified, he would have had a period of mandatory licence suspension. Transparency and consistency of regulation in a national context are important and the standard has been well publicized.

The Director accepted the recommended penalty of allowing Mr. Bush until December 15, 1999, to provide evidence of completion of 50 hours of continuing education, and such hours will be applicable only for the period from February 1995 to June 1998. If Mr. Bush fails to comply with this provision, his licence will be suspended until such time as he complies.

Life agent:	**George R. Fraser (Fergus) Level II agent**
Advisory Board Hearing:	**February 18, 1999**
Decision:	**Licence Suspended**

An Advisory Board hearing was conducted in Toronto to consider the suspension or revocation of Mr. Fraser's licence because of his failure to comply with the continuing education requirements and for making a material misstatement in his renewal application by stating that he had completed the required continuing education hours. In its report, the panel recommended that Mr. Fraser's licence be suspended for a period of 30 days.

By decision dated April 29, 1999, the Director accepted the findings of fact and accepted the recommended penalty of ordering a suspension of the life agent's licence for a period of 30 days, commencing May 17, 1999. Additionally, the Director ordered that Mr. Fraser submit by July 31, 1999, evidence acceptable to the Superintendent of Financial Services of completion of 47.5 hours of continuing education. Such evidence will be considered applicable only to the continuing education requirement for the licence term that expired April 14, 1998.

Mr. Fraser appealed the Director's decision and was granted a hearing by the Financial Services Tribunal (FST) which issued its decision on July 7, 1999. (Please see the decision of the FST in this bulletin.)

Life agent:	**Ken G. Heltcher (Brechin) Level II agent**
Advisory Board Hearing:	**February 18, 1999**
Decision:	**Licence Suspended**

An Advisory Board hearing was conducted in Toronto to consider the suspension or revocation of Mr. Heltcher's licence because of his failure to comply with the continuing education requirements and for making a material misstatement in his renewal application by stating that he had completed the required continuing education hours. In its report, the panel recommended that Mr. Heltcher's licence be suspended for a period of 15 days. The panel also reported that the agent subsequently met the required hours of continuing education and felt there were mitigating circumstances justifying a lesser sentence.

By decision dated April 29, 1999, the Director accepted the findings of fact and ordered a suspension of the life agent's licence for a period of 15 days, commencing May 17, 1999.

Life agent:	**Earl W. MacDonald (St. Catharines) Level II agent**
Advisory Board Hearing:	**May 19, 1999**
Decision:	**Licence Suspended**

An Advisory Board hearing was conducted in Toronto to consider the suspension or revocation of Mr. MacDonald's licence because of his failure to comply with the continuing education requirements, and for making a material misstatement in his CE declaration by stating that he had completed the required continuing education hours. In its report, the panel recommended that Mr. MacDonald's licence be suspended for a period of three months and that it be further suspended if he does not submit proof of completion of the required continuing education hours. The panel also recommended that Mr. Macdonald be required to supply proof of completion of the required number of continuing education hours for his next renewal, with that licence renewal application.

By decision dated June 28, 1999, the Director accepted the findings of fact and ordered a suspension of the life agent's licence for a period of three months, commencing October 1, 1999. The Director further ordered that Mr. MacDonald complete 51.25 hours of continuing education and submit proof acceptable to the Superintendent prior to completion of the period of suspension. Such continuing education hours will be applicable only to the continuing education requirement for the licence period which expired on July 14, 1998. If Mr. MacDonald fails to complete the required continuing education, his licence will be further suspended until such time as he does.

Life agent:	**Sivalingum Naicker (Brampton) Level II agent**
Advisory Board Hearing:	**January 26, 1999**
Decision:	**Licence Suspended**

An Advisory Board hearing was conducted in Toronto to consider the suspension or revocation of Mr. Naicker's licence because of his making a material misstatement in his renewal application by failing to disclose that he was found guilty of offences under the Unemployment Insurance Act, and it was further suggested that he was not a suitable person to maintain a life insurance agent's licence. In its report, the panel recommended that Mr. Naicker receive a strongly worded letter of reprimand, reminding him of his obligations and duties as an agent.

By decision dated April 29, 1999, the Director accepted the findings of fact and ordered that the insurance agent's licence of Mr. Naicker be suspended for a period of one week. The Director indicated that a suspension was warranted to reflect the importance of providing true information to the Commission. Accordingly, a one week suspension was ordered, commencing May 17, 1999.

Life agent:	**Francis M. Trinidad (Scarborough) Level II agent**
Advisory Board Hearing:	**April 19, 1999**
Decision:	**Licence Suspended**

An Advisory Board hearing was conducted in Toronto to consider the suspension or revocation of Mr. Trinidad's licence because of his failure to comply with the continuing education requirements, and for making a material misstatement in his CE declaration by stating that he had completed the required continuing education hours. In its report, the panel recommended that, within 60 days, Mr. Trinidad either produce the missing certificates for courses he claims to have completed or take 19 hours of courses and provide certificates to the Commission and should he fail to do so, his licence would be revoked. If the required certificates are provided within 60 days, his licence is to be suspended for 30 days.

By decision dated May 24, 1999, the Director accepted the findings of fact and ordered that Mr. Trinidad submit evidence of completion of 52.5 hours of continuing education by August 31, 1999; that his insurance agent’s licence be revoked on August 31, 1999, if he fails to produce proof of completion of the stipulated continuing education hours; and further ordered that his licence be suspended for a one month period commencing September 1, 1999. Mr. Trinidad provided evidence of the required continuing education prior to August 31, 1999.

Life agent:	**Darren J. Worrall (Dundas) Level II agent**
Advisory Board Hearing:	**May 5, 1999**
Decision:	**Licence Suspended**

An Advisory Board hearing was conducted in Toronto to consider the suspension or revocation of Mr. Worrall's licence because of his failure to comply with the continuing education requirements; his failure to furnish information to the Superintendent; for making a material misstatement in his renewal application by stating that he had completed the required continuing education hours; and for failing to facilitate an examination.

The board found that Mr. Worrall had in fact completed his continuing education hours at the time he applied for his licence renewal, but that he failed to facilitate an examination and to furnish information to the Commission when it was requested of him. In its report, the panel recommended that Mr. Worrall's licence be suspended for a period of one week, that he become a member of CAIFA so that they could keep track of his continuing education courses, and that he provide proof of completion of continuing education credits for the next licence period along with his application for renewal of his licence.

By decision dated June 28, 1999, the Director accepted the findings of fact and ordered a penalty of suspension of the life agent’s licence for a period of one week, commencing August 1, 1999.

Dispute resolution decisions

An arbitrator may decide, through various dispute resolution processes involving insurers and statutory accident benefits claimants, to impose penalties under the Insurance Act. Under section 282(10), a special award may be made against an insurer where it has acted unreasonably. Under section 282(11.2), an assessment award may be made against an insured person if the arbitration is frivolous or vexatious, or an abuse of process.

Type of Decision	**Arbitration**
Applicant	**Nina Lazareva**
Insurer	**Royal Insurance Company of Canada**

Penalty	**Special Award**

An arbitration decision was released on May 28, 1999, regarding the application to Royal Insurance Company of Canada by Ms. Nina Lazareva for statutory accident benefits. The applicant sustained personal injuries in a motor vehicle accident on January 26, 1996. Royal Insurance denied the payment of weekly income replacement benefits and other benefits on the grounds that she was still able to perform the essential duties in her job. The arbitrator determined in the decision that Ms. Lazavera was entitled to weekly benefits up to February 21, 1996, and that the insurer had medical and financial information justifying the payment of benefits to February 21, 1996.

Ms. Lazareva received a special award of 50 per cent of the amount of the weekly benefits to which she was entitled, on the basis that the insurer's refusal to pay benefits up to February 21, 1996, was unreasonable at the time of refusal.

Type of Decision	**Arbitration**
Applicant	**Viuh Kha**
Insurer	**State Farm Mutual Automobile Insurance Company**
Penalty	**Assessment Award**

An arbitration decision was released on May 26, 1999, regarding the application to State Farm Mutual Automobile Insurance Company by Mr. Viuh Kha for statutory accident benefits. The applicant alleged he was injured in a motor vehicle accident on June 2, 1996. State Farm denied the applicant benefits, claiming that Mr. Kha was not an occupant of the vehicle at the time of the accident. In the decision, the arbitrator determined that the applicant was not involved in an accident on June 2, 1996, and was therefore not "an insured person" under the law and was not entitled to the benefits he applied for. Mr. Kha was ordered to pay $3,000 to State Farm as an assessment.

Type of Decision	**Arbitration**
Applicant	**Zenaida Osorio**
Insurer	**Allstate Insurance Company of Canadaate Farm Mutual Automobile Insurance Company**

Penalty	**Assessment Award**

An arbitration decision was released on June 9, 1999, regarding the application to Allstate Insurance Company of Canada by Mrs. Zenaida Osorio for statutory accident benefits. The applicant sustained personal injuries in a motor vehicle accident on February 23, 1994. Allstate paid the applicant weekly income replacement benefits but refused to pay for medical and rehabilitation benefits. The insurer's reason for the refusal was that the claim Mrs. Osorio was seeking to have arbitrated had already been sent to the courts for a ruling. The arbitrator dismissed the arbitration and ordered Mrs. Osorio to pay the insurer $3,000 for its assessment, as the commencement of her arbitration proceeding was determined to be an abuse of process.

Type of Decision	**Arbitration**
Applicant	**Harrinauth Deesasan**
Insurer	**Guarantee Company of North America**
Penalty	**Assessment Award**

An arbitration decision was released on June 23,1999, regarding the application to Guarantee Company of North America by Mr. Harrinauth Deesasan for statutory accident benefits. The applicant claimed he sustained personal injuries in a motor vehicle accident on June 25, 1996. Guarantee Company denied the applicant weekly income replacement benefits on the grounds that he was not injured in an accident involving a motor vehicle. The arbitrator determined that Mr. Deesasan abandoned his claim for benefits as he failed to show up at the arbitration hearing, and failed to notify his lawyer and the Financial Services Commission of Ontario of his whereabouts since he changed his place of residence. Mr. Deesasan was ordered to pay Guarantee Company an assessment of $3,000 on the basis that he commenced an arbitration that was an abuse of process

FINANCIAL SERVICES TRIBUNAL DECISIONS

The following two insurance decisions -- the only ones that have been issued to date -- include one that was made on January 28, 1999:

Appellant	**Transamerica Life Insurance Company of Canada**

Type of Matter	**Prohibition Order of Superintendent of Financial Services**
Outcome	**Appeal allowed**

On January 28, 1999, the FST issued a decision regarding an appeal by Transamerica Life Insurance Company of Canada of a Prohibition Order by the Superintendent of Financial Services. The order, dated September 18, 1998, prohibited Transamerica Life from offering consumers a segregated fund known as a " BPI Legacy Funds" Annuity Contract. The fund featured an option that allows an insured person to negotiate with the fund distributor an initial sales charge set by the appellant. The FST determined that the sales charge did not discriminate against consumers in that they would be treated differently, and therefore did not constitute a deceptive act or practice that is prohibited under the law. The appeal was allowed.

Appellant	**George Fraser, Level II agent**
Type of Matter	**Decision of Director, Licensing & Enforcement Division, as delegated to the Director by the Superintendent of Financial Servicess**
Outcome	**Decision of Director varied**

On July 7, 1999, the FST issued a decision regarding an appeal by George Fraser, a Level II agent, of an Order, by the Director of the Licensing and Enforcement Division, issued with the delegated authority of the Superintendent of Financial Services. The Order suspended the agent's licence for 30 days, starting May 17, 1999, and was based on a recommendation by an Advisory Board which noted that Mr. Fraser had failed to meet the continuing education requirement, and that he had misrepresented the amount of his continuing education during the same period. The Order also required Mr. Fraser to provide evidence that he had completed 47.5 hours of continuing education after February 1, 1995.

The FST ordered that the decision of the Director be stayed until final disposition of the appeal. On hearing the appeal on June 21 and June 29, 1999, the FST admitted new evidence of the appellant's accumulation of continuing education credits. It found, however, that Mr. Fraser did not complete the requisite credits for the period ending April 14, 1998 but that he had completed 47.5 hours after February 1, 1995. The FST's decision varied the penalty imposed by the Director, and ordered that Mr. Fraser be suspended for one week, starting July 12, 1999.

Martha Milczynski	Dina Palozzi
Acting Chair	Chief Executive Officer
Financial Services Commission	Financial Services Commision
of Ontario	of Ontario
Acting Chair of the	Superintendent of Financial
Financial Services Tribunal	Services

October 13, 1999

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