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Bulletin

No. G-05/05

– General

Monitoring and enforcement report - including prosecution and hearing decisions - January 1 to June 30, 2005

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

The Financial Services Tribunal (FST), an independent adjudicative body, hears appeals or reviews proposed or intended decisions of the Superintendent of Financial Services (Superintendent), who makes the majority of first line regulatory decisions. These appeals or reviews are conducted at the request of an affected party. In its hearings, the FST determines all questions of fact or law. As well, the FST has authority to make rules for the practice and procedure to be observed in a proceeding before it, and to order a party to a proceeding before it to pay the costs of another party or the FST's costs of the proceeding.

The Superintendent administers and enforces the Financial Services Commission of Ontario Act, 1997 (FSCO Act), and other Acts that confer powers or assign duties to the Superintendent. Under the FSCO Act, the Superintendent may delegate the exercise of any power or the performance of any duty conferred on or assigned to the

Superintendent. The Executive Director of the Licensing and Market Conduct Division (the "Director") has been delegated the authority by the Superintendent to render licensing decisions. The Dispute Resolution Services Branch provides mediation, neutral evaluation, arbitration and appeal services as fair, cost-effective and timely alternatives to the court system. An arbitrator may decide at the conclusion of an arbitration hearing 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 that has unreasonably withheld or delayed the payment of benefits.

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

Monitoring Activities

FSCO undertakes a number of monitoring activities as part of its regulatory functions. It conducts police background checks on prospective agents and paralegals and reviews complaints against agents, paralegals and health care providers. In addition, FSCO audits approximately 10 per cent of all life agent renewal applications to ensure they meet continuing education (CE) and errors & omissions insurance (E&O) requirements. Paralegals are also subject to annual E&O audits, normally conducted in the first quarter of the year.

These checks, reviews and audits are the first step in the enforcement process. A significant number of matters are resolved at this first step.

Police Checks

During the period, a total of 11,366 police checks on the background of existing and prospective agents and paralegals were made with the Canadian Police Information Centre.

Complaints and Reviews

COMPLAINTS

	Complaints in Progress Dec 31	Plus complaints received during the period	Less complaints in progress June 30, 2005	Total number of complaints reviews completed during the period
Agent	28	108	83	53
Paralegal	36	22	34	24
Health Care Provider	4	6	6	4

DISPOSITIONS				
	Cases forwarded for (potential) enforcement	Cases resolved	Cases closed	Total
Agent	32	7	14	53
Paralegal	14	5	3	22
Health Care Provider	12	0	1	2

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 215 audits of paralegals/SABS representatives, to ensure they met their E&O insurance requirements.

Investigation Activities

As a follow-up to its regular monitoring activities – police background checks, the reviews of complaints received and

audits of compliance with CE requirements and E&O compliance – 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, Advisory Board hearings or other administrative action may be contemplated.

Source of investigations	
Agents	
Suitability	13
Complaints about agent conduct	18
Doing business without a licence	15
Insurance Companies	
Complaints about insurance company conduct	4
Doing business without a licence in force	0
Mortgage Brokers	
Suitability	1
Complaints about mortgage broker conduct	12
Doing business without a licence	2
Paralegals	
Suitability	4
Complaints about paralegal conduct	19
Loan & Trust Companies	
Complaints about Loan & Trust company conduct	0
Doing business without a licence	5
Credit Unions	
Doing business without a licence	0
Grand Total	93

Outcome of investigations	
A total of 110 cases were completed:	
Charges laid in Provincial Offences court	11
Superintendent's Orders issued	19
Cease & Desist Orders issued	8
Letters of Caution issued	24
Closed files (no enforcement action warranted)	48
Total	**110**

Cases may be closed if there is insufficient evidence to support the allegations, or if the allegations are unfounded. The results of the individual court cases and the Advisory Board hearings are reported in the period when the decisions are rendered. The names of individuals subject to Superintendent's Orders or who have surrendered their licences are recorded when they occur.

Administrative Sanctions

- **Letters of Warning**

During the period, 192 Letters of Warning were issued to life agents, all of whom were late in applying for licence renewal. Letters of Warning do not require formal investigations and are not included in the preceding statistics.

- **Letters of Caution**

There were 33 Letters of Caution issued in addition to the 24 Letters of Caution that resulted from formal investigations.

Minutes of Settlement and Superintendent's Orders

Thirteen agents/representatives entered into Minutes of Settlement for non-compliance with legislated requirements, of these, eight agents consented to orders revoking their licences.

Christy Bair	By an order, dated February 28, 2005, this life insurance agent's licence was suspended for one month, effective April 1, 2005. The agent had indicated on a life insurance application that the new policy was not intended to replace another policy when at or about that time the agent knew that the clients were requesting a cancellation of an existing policy.
Jose B. Contreras	By an order, dated February 11, 2005, this life insurance agent's licence was revoked. The agent had used coercion to secure insurance business by informing students being trained in palliative and geriatric care that they required life insurance and that premiums after the first two monthly premium payments would be paid by the employer or deducted from their pay cheques. The agent submitted 144 applications, the majority of which were cancelled, terminated or otherwise allowed to lapse.
Claude Clement Ferguson Sr.	By an order, dated May 19, 2005, Mr. Ferguson Sr. agreed that he will not on his own behalf or on behalf of another person, directly or indirectly solicit the right to negotiate, for compensation, the settlement of a claim for loss or damage arising out of a motor vehicle accident resulting from bodily injury to or death of any person or damage to property on behalf of a claimant; or hold himself out as an adjuster, investigator, consultant or otherwise on behalf of any person having a claim against

	an insured or an insurer for which indemnity is provided by a motor vehicle liability policy, including a claim for Statutory Accident Benefits (SABS) for a period of three years. It was determined that Mr. Ferguson Sr. had committed an unfair and deceptive act or practice pursuant to the definition of "unfair or deceptive acts or practices" and violated the Code of Conduct for Statutory Accident Benefit Representatives.
Amanpreet Gill	By an order, dated March 10, 2005, this agent's licence, other than life insurance, was revoked. The agent had placed 26 insurance policies on homes or autos without dealing directly with the consumer. The agent had received calls from a person, who was not a licensed insurance broker, and was advertising by word of mouth that he could obtain auto and home insurance for members of the public and would take a fee for his service.
Sang-Jung (Stacey) Kim	By an order, dated April 14, 2005, this life insurance agent's licence was revoked. The agent had provided questions from a Life Licence Qualifying Examination (LLQP) to a relative who was subsequently caught cheating at a LLQP examination in Vancouver.

Frank Latam	By an order, dated February 24, 2005, this agent's other than life insurance licence was revoked. The agent failed to disclose on his Life Insurance Agent's Applications in 1999 and 2001 that he was the subject of regulatory proceedings that resulted in a penalty being imposed. The agent had also issued a new life insurance policy when the clients had requested that the existing policy be amended. A further review of the agent's business found instances of misrepresentation, forgery, non-delivery of policy and premium rebating.
Alex Ostrovsky **AB Consultants Group Inc.**	By an order, dated June 24, 2005, Mr. Ostrovsky agreed that he will not on his own behalf or on behalf of another person, directly or indirectly solicit the right to negotiate, for compensation, the settlement of a claim for loss or damage arising out of a motor vehicle accident resulting from bodily injury to or death of any person or damage to property on behalf of a claimant; or hold himself out as an adjuster, investigator, consultant or otherwise on behalf of any person having a claim against an insured or an insurer for which indemnity is provided by a motor vehicle liability policy, including a claim for SABS benefits for a period of five years. It was determined that Mr. Ostrovsky had committed an unfair and deceptive act or practice pursuant to the definition of "unfair or deceptive acts or

	practices" and violated the Code of Conduct for Statutory Accident Benefit Representatives. This agreement also applies to AB Consultants Group Inc.
Yash Paul **Can-Asia Legal Services**	By an order, dated April 15, 2005, Mr. Paul agreed that he will not on his own behalf or on behalf of another person, directly or indirectly solicit the right to negotiate, for compensation, the settlement of a claim for loss or damage arising out of a motor vehicle accident resulting from bodily injury to or death of any person or damage to property on behalf of a claimant; or hold himself out as an adjuster, investigator, consultant or otherwise on behalf of any person having a claim against an insured or an insurer for which indemnity is provided by a motor vehicle liability policy, including a claim for SABS benefits for a period of five years. It was determined that Mr. Paul had committed an unfair and deceptive act or practice pursuant to the definition of "unfair or deceptive acts or practices" and violated the Code of Conduct for Statutory Accident Benefit Representatives. This agreement also applies to Can-Asia Legal Services.
Raad Raad	By an order, dated February 3, 2005, this life insurance agent’s licence was revoked. The agent, who owned 50 per cent of a company, had forged his business partner’s signature on approximately 30 company cheques.

Maqsood Rasheed	By an order, dated April 29, 2005, this life insurance agent's licence was revoked. The agent had provided false information that overstated a clients' income on applications for unsecured lines of credit to be used to purchase Registered Retirement Savings Plan products.
George A. Wardle	By an order, dated March 15, 2005, this accident & sickness insurance agent's licence was revoked. The agent had paid premiums on behalf of a policyholder and also had an additional policy issued without the policyholder's knowledge.
Steven M. White	By an order, dated March 7, 2005, this life insurance agent's licence was revoked. FSCO received information that the agent had been investigated by the Investment Dealers Association (IDA) for alleged inappropriate personal financial dealings with clients. At the IDA hearing, the agent admitted the allegation and the Council ordered a permanent prohibition from registration in any capacity. This ruling raised concerns as to the agent's suitability to carry on business as an insurance agent in an appropriate manner, and accordingly, by mutual agreement, his licence was revoked.

Annie F. Wong	By an order, dated May 19, 2005, this life insurance agent's licence was suspended for 30 days commencing July 1, 2005. The agent had failed to complete the required continuing education hours and had made a material misstatement in her renewal application.

Prosecutions

Insurance

Charge: Acting as a SABS representative without filing a declaration

Against: Emilia Piccinini

Verdict Guilty

On January 11, 2005, in Toronto provincial court, Emilia Piccinini pleaded guilty and was convicted under the Insurance Act of two counts of acting as a SABS representative without having filed a declaration with the Superintendent, contrary to s. 398. She was fined $500 on each count.

Mortgage Brokers

Charge: Failure to File Financial Statements

Against: Central Funding Group Ltd.

Verdict Guilty

On March 23, 2005, in Toronto provincial court, Central Funding Group Ltd. was found guilty and was convicted of two counts of failing to file financial statements as required under the Mortgage Brokers Act. The company was fined $650 on each count.

Charge: Failure to File Financial Statements

Against: Mortgage Alliance Company of Canada Inc.

Verdict Guilty

On April 13, 2005, in Toronto provincial court, Mortgage Alliance Company of Canada Inc. was found guilty and was convicted of failing to file financial statements as required under the Mortgage Brokers Act. The company was fined $500.

Charge: Failure to File Financial Statements

Against: PMB Professional Mortgage Brokers Inc.

Verdict Guilty

On April 13, 2005, in Toronto provincial court, PMB Professional Mortgage Brokers Inc. was found guilty and was convicted of failing to file financial statements as required under the Mortgage Brokers Act. The company was fined $150.

Charge: Failure to File Financial Statements

Against: Rochbury Corporation Inc.

Verdict Guilty

On April 13, 2005, in Toronto provincial court, Rochbury Corporation Inc. was found guilty and was convicted of failing to file financial statements as required under the Mortgage Brokers Act. The company was fined $500.

Hearings

An Advisory Board established under the Insurance Act 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.

Life Applicant:	Elias Cicvak (Ottawa)
Advisory Board Hearing	February 4, 2005
Decision	Application denied

An Advisory Board hearing was conducted in Ottawa to consider Mr. Cicvak's application for a life insurance agent's licence. The Board noted that it had considered Mr. Cicvak's position that he had been treated unfairly. In its report, the Board found that Mr. Cicvak did not pass the examination required to apply for a licence as a life insurance agent and therefore, did not meet the proficiency requirement established by the Superintendent to obtain a licence, and recommended that he be denied a licence.

By decision dated February 28, 2005, the Superintendent adopted the findings of the Advisory Board and ordered that Mr. Cicvak's application for a life insurance agent licence dated August 27, 2004 be denied.

Mr. Cicvak appealed the decision to the FST, and the results will be reported in a subsequent bulletin.

Life Applicant:	Robert Morrison (Ottawa)
Advisory Board Hearing	November 29 - December 1, 2004
Decision	Licence revoked

An Advisory Board hearing was conducted in Ottawa to consider the revocation or suspension of Mr. Morrison's licence following allegations that he is not of good character or reputation, or a suitable person to hold a licence in that he obtained a confidential copy of the Life Licensing Qualification Program (LLQP) examination and made it available to American Income Life (AIL) Insurance Company exam candidates. The Board found that Mr. Morrison knew the exam had been obtained improperly and chose to distribute copies to AIL candidates to help them pass the exam. Mr. Morrison also stood to gain financially if candidates passed the LLQP exam quickly and could begin to sell insurance from which he would be paid a commission. The Board also took into account that at no time during the proceeding did Mr. Morrison apologize for his actions or offer any mitigating circumstances to explain his behaviour. In its report, the Board found that the allegations against Mr. Morrison were established and recommended that his licence be revoked.

By decision dated February 28, 2005, the Superintendent accepted the findings of fact of the Board and ordered that Mr. Robert Morrison's life insurance agent's licence be revoked. The agent placed his own interests above those of the public and the agents he had a responsibility to train. Mr. Morrison demonstrated a lack of respect for the insurance regulatory system, insurance consumers and the agents he had responsibility to train, all of which related to his character and suitability as an insurance agent.

Life Applicant:	Lewis Prochnau (Stittsville)
Advisory Board Hearing	November 29 to December 1, 2004
Decision	Allegations dismissed

An Advisory Board hearing was conducted in Ottawa to consider allegations that Mr. Prochnau is not of good character or reputation because for a period of approximately one year, commencing in March 2003, he was aware that a confidential copy of the LLQP examination was being used improperly by AIL exam candidates to prepare for the examination and took no steps to bring this to the attention of senior management of AIL or the Superintendent. The Board was not satisfied that the evidence presented was sufficiently clear, cogent and convincing to satisfy it that Mr. Prochnau knew that a confidential copy of the LLQP had been improperly obtained and was being circulated in the office for the purposes of assisting candidates to pass the LLQP examination. The Board found that the allegations against Mr. Prochnau were not established and recommended they be dismissed.

By decision dated February 28, 2005, the Superintendent adopted the findings of the Advisory Board and ordered that the allegations against Mr. Prochnau be dismissed.

Life Applicant:	Timothy Simpson (Ottawa)
Advisory Board Hearing	November 29 to December 1, 2004
Decision	Allegations dismissed

An Advisory Board hearing was conducted in Ottawa to consider allegations that Mr. Simpson is not of good character or reputation because for a period of approximately one year, commencing in March 2003, he was aware that a confidential copy of the LLQP examination was being used improperly by AIL exam candidates to prepare for the examination and took no steps to bring this to the attention of senior management of AIL or the Superintendent. The Board was not satisfied that the evidence presented was sufficiently clear, cogent and convincing to satisfy it that Mr. Simpson knew that a

confidential copy of the LLQP had been improperly obtained and was being circulated in the office for the purposes of assisting candidates to pass the LLQP examination. The Board found that the allegations against Mr. Simpson were not established and recommended they be dismissed.

By decision dated February 28, 2005, the Superintendent adopted the findings of the Advisory Board and ordered that the allegations against Mr. Simpson be dismissed.

Life Applicant:	Claudia A. Smith (Etobicoke)
Advisory Board Hearing	March 29 to March 31, 2005
Decision	Licence revoked

An Advisory Board hearing was conducted in Toronto to consider the suspension or revocation of Ms. Smith's licence following allegations that she committed fraudulent acts, demonstrated untrustworthiness to transact the insurance agency business, is not of good character and is not a suitable person to hold a licence. The Board found that Ms. Smith had misappropriated funds from a client, failed to complete and review a disclosure statement with a client, failed to forward a copy of a completed disclosure statement to the insurers, had created a false document and provided false information and failed to comply with the demand of FSCO under Section 31 of the Insurance Act. In its report, the Board recommended that Ms. Smith's licence be revoked.

By decision dated May 9, 2005, the Superintendent adopted the findings of the Advisory Board. The agent had engaged in repeated acts of theft of client funds, production of false documents and failure to tell the truth when confronted with the facts. The age of the client who was the victim makes these acts all the more serious. The Superintendent ordered that the life

insurance agent's licence of Ms. Smith be revoked.

Life Applicant:	Gordon D. Smith (Toronto)
Advisory Board Hearing	Agent did not request hearing
Decision	Licence revoked

A Notice of Opportunity for Hearing was sent to Mr. Smith to consider the revocation or suspension of his life insurance agent's licence following allegations that he is not a suitable person to hold an agent's licence because he demonstrated lack of honesty and integrity by furnishing the Ontario Court of Justice and FSCO with contradictory information, and further, that he furnished FSCO with a false explanation as to why he made the contradictory statements.

By decision dated April 19, 2005, the Superintendent found the allegations against Mr. Smith to be established and found that Mr. Smith provided false information to FSCO about a criminal conviction. The Superintendent ordered that Mr. Smith's life insurance agent's licence be revoked.

Regulatory Actions and Related Hearings

The Superintendent acts by 'Notice of Proposal to make an Order'. Where there is a request for a hearing, the FST will hear the matter and an Order will be issued. Where there is no request for a hearing, the Superintendent may make the Order set out in the 'Notice'.

Where the Superintendent is of the opinion that the interests of the public may be prejudiced or adversely affected by any delay in the issuance of a permanent order, the Superintendent, without prior notice, may make an interim or temporary order which shall take effect immediately on its making, and which shall become permanent on the 15th

day after its making unless within that time the person requests a hearing before the FST.

Action: Interim Cease and Desist Orde

Against: Marcello Calise

Date: February 9, 2005

The Superintendent issued an Interim Cease and Desist Order against a St. Catharines paralegal, Marcello Calise. Under subsection 441(4) of the Insurance Act, the Superintendent ordered Marcello Calise and Calise & Associates Legal Services Inc., and any agents or representatives thereof to immediately cease carrying on business as statutory accident benefit representatives, immediately notify in writing all clients of Calise and Calise & Associates Legal Services Inc. who have claims for statutory accident benefits that Mr. Calise can no longer act for them; provide them with a copy of the Cease and Desist Order; and, provide copies of every notification sent to each client to the Superintendent forthwith, and immediately cease advertising or holding out, in any form, as a statutory accident benefits representative within Ontario.

It is alleged that Mr. Calise misappropriated a client's settlement funds and accepted fees under a contingency fee arrangement. Despite repeated requests by FSCO for information about these allegations, Mr. Calise did not contact FSCO. According to the Order, "this failure to reply to FSCO strikes at the very heart of the regime to effectively ensure confidence in the automobile insurance system and allow FSCO to ensure compliance."

No request for a hearing was made and accordingly, the Interim Order became permanent on February 25, 2005.

Action: Cease and Desist Order

Against: Antoinette Gail Freeman and 1301137 Ontario Inc. operating as "Take II, Take II Textiles, Take II Insurance and Take II Introvisuals"

Date: March 25, 2005

On March 25, 2005, the Superintendent ordered that Antoinette Gail Freeman and 1301137 Ontario Inc., among other things, cease or refrain from holding themselves out as an insurance agent or consultant; using the name "Take II Insurance" and any other business name containing the word "insurance" or "assurance," and to immediately notify, in writing, all persons who have purchased or are purchasing any form of insurance, as defined in the Insurance Act, that they are not authorized to provide or sell any form of insurance. Ms. Freeman and 13011370 Ontario were not licensed as an insurance agent and had been acting as an insurance agent by selling automobile insurance and property damage insurance.

Action: Cease and Desist Order

Against: Security National Insurance Company and TD General Insurance Company

Date: March 30, 2005

On March 14, 2005, the Superintendent issued a Notice of Proposed Cease and Desist Order to Security National Insurance Company and TD General Insurance Company as he was of the opinion that they had committed unfair or deceptive acts or practices by charging rates for coverages or categories of automobile insurance that were not approved by the Superintendent. Neither company requested a hearing.

On March 30, 2005, Security National Insurance Company and TD General Insurance Company were each ordered to reimburse affected policyholders in a manner acceptable to the Superintendent; institute internal control

procedures to ensure that all rates charges for all coverages or categories of automobile insurance are in accordance with the rates filed and approved by the Superintendent; and to each make payment of $50,000 to the Minister of Finance to remedy the effects of the failure to charge rates for coverages or categories of automobile insurance in accordance with the Insurance Act.

Action: Cease and Desist Order

Against: Ian Stuart-Smith and Heritage International Inc. carrying on business as "Surplus Lines"

Date: April 11, 2005

On October 21, 2003, the Superintendent issued a Notice of Proposed Cease and Desist Order against Mr. Stuart-Smith and Heritage International Inc., that was later amended on January 20, 2005. On December 29, 2003, the respondents requested a hearing, however, on April 11, 2005, they withdrew their request. On April 11, 2005, the Superintendent ordered, among other things, that Mr. Stuart-Smith and Heritage International Inc, carrying on business under the name Surplus Lines, immediately cease acting as insurance agents in Ontario unless and until an agent's licence is issued under the Insurance Act or registration is granted under the Registered Insurance Brokers of Ontario Act.

Action: Cease and Desist Order

Against: Bryan Holstrom and Jill Hunter o/a "United Freight Carriers of North America" ("UFCNA")

Date: April 13, 2005

On March 4, 2005, the Superintendent issued a Notice of Proposed Cease and Desist Order and an Interim Cease and Desist Order as he was of the opinion that Mr. Holstrom and Ms. Hunter, operating as UFCNA, had committed unfair or deceptive acts or practices by acting as insurance agents without the required licence and or carrying on business as an insurer without the required licence. These were served on March 29, 2005. No request for a hearing was made and accordingly, the Interim Order became permanent on April 13, 2005. The Superintendent ordered that Mr. Holstrom and Ms. Hunter, operating as UFCNA, among other things, cease or refrain from holding themselves out as insurance agents or as insurers; cease or refrain from using any business name containing the word "insurance" or "assurance"; and cease or refrain from soliciting insurance on behalf of an insurer.

Action: Interim Cease and Desist Order

Against: Robert Crosbie and R.E.C. Paralegal

Date: May 20, 2005

The Superintendent issued an Interim Cease and Desist Order against a Toronto paralegal, Robert Crosbie and R.E.C. Paralegal. Under subsection 441(4) of the Insurance Act, the Superintendent ordered Mr.Crosbie, carrying on business as R.E.C. Paralegal, and any agents or representatives thereof to immediately cease carrying on business as statutory accident benefit representatives, immediately notify in writing all of Mr. Crosbie's clients who have claims for statutory accident benefits that Mr. Crosbie, and any of his agents or representatives, can no longer act for them; provide them with a copy of the Cease and Desist Order; and, provide copies of every notification sent to each client to the Superintendent forthwith, and to immediately cease advertising or holding out, in any form, as statutory accident benefits representatives within Ontario.

Mr. Crosbie refused repeated requests by FSCO for information on his activities as a statutory accident benefit representative. It is the obligation of a statutory accident benefit representative, as set out in the Code of Conduct for Statutory Accident Benefit Representatives, to respond to requests for information from FSCO fully and promptly. This is a critical requirement in the regime that allows individuals to act as representatives.

Action: Interim Cease and Desist Order

Against: Khalil (Evan) Abraham Ismaeli aka Khalil Asmail

Date: June 16, 2005

The Superintendent issued an Interim Cease and Desist Order against a Toronto paralegal, Khalil (Evan) Abraham Ismaeli aka Khalil Asmail. Under subsection 441(4) of the Insurance Act, the Superintendent ordered Khalil (Evan) Abraham Ismaeli aka Khalil Asmail, carrying on business as Top Defence Inc. and any agents or representatives thereof to immediately cease carrying on business as statutory accident benefit representatives, to immediately notify in writing all clients of Khalil (Evan) Abraham Ismaeli aka Khalil Asmail who have claims for statutory accident benefits that he and Top Defence Inc. can no longer act for them; provide them with a copy of this cease and desist order; and, provide copies of every notification sent to each client to the Superintendent forthwith; and to immediately cease advertising or holding out, in any form, as statutory accident benefits representatives within Ontario.

An investigation by FSCO raised serious questions as to the proper legal name and identity of Mr. Ismaeli. Mr. Ismaeli failed to respond to FSCO's request for additional information. Mr. Ismaeli also falsely advised FSCO that he had appealed two counts of breaching the Insurance Act dating from

1999.

Action: Extension of Interim Cease and Desist Order

Against: Robert Crosbie and R.E.C. Paralegal

Date: June 22, 2005

On June 22, 2005, the Superintendent of Financial Services issued an Interim Cease and Desist Order against Robert Crosbie and 1460246 Ontario Inc. carrying on business as R.E.C. Paralegal.

The Interim Cease and Desist Order required Mr. Crosbie and R.E.C. Paralegal, and any agents or representatives thereof, to immediately cease carrying on business as statutory accident benefit representatives, to immediately cease providing any service to anyone related in any way to a claim for statutory accident benefits, whether or not such services are charged a fee or not, to immediately cease advertising or holding out to the public in any way, that services of any kind relating to claims for statutory accident benefits are offered or provided, whether or not such services are charged a fee or not, to immediately cease sending, or allowing the use of, R.E.C. Paralegal letterhead, or the name R.E.C. Paralegal, in connection with any claim for statutory accident benefits regardless if the person has or has not filed a declaration with the Superintendent to be exempted from the prohibition set out in section 398 of the Insurance Act, and to immediately provide to the Superintendent a list of the names, addresses and telephone numbers of all persons who had claims for statutory accident benefits who were clients of Mr. Crosbie or R.EC. Paralegal as of May 19, 2005.

The Interim Cease and Desist Order was issued pursuant to subsection 441 (4) of the Insurance Act. Mr. Crosbie and R.E.C. Paralegal filed a request for a hearing by the FST. The hearing was scheduled to commence August 2, 2005.

Action: Cease and Desist Order

Against: Peter Bariamis and Interamerican Financial Inc., carrying on business as "York Commonwealth Direct"

Date: June 22, 2005

On June 6, 2005, the Superintendent issued a Notice of Proposed Cease and Desist Order and an Interim Cease and Desist Order against Peter Bariamis and Interamerican Financial Inc., carrying on business as York Commonwealth Direct (York). There was no request for a hearing and the Interim Order became permanent on June 22, 2005.

Although Mr. Bariamis was not licensed as an agent and York was not licensed as an insurer, Mr. Bariamis sold policies of insurance to the public with York as the insurer. Mr. Bariamis was ordered, among other things, to immediately cease acting as an agent and reimburse all premiums received in connection with insurance coverage with York. York was ordered to immediately cease acting, or holding itself out, as an insurer and reimburse all premiums received in connection with insurance coverage.

12-Month Enforcement Action and Monitoring Activities Summary

Over the 12 months (July 1, 2004 - June 30, 2005), FSCO took 278 enforcement actions. This represents a significant amount of enforcement activity. The chart below details the types of activities taken.

Type of Enforcement Action	Number of Cases

Letters of censure	62
Licence conditions via Minutes of Settlement	0
Provincial Offences Court convictions and fines	14
Revocation of sponsorship	2
Licence suspensions	7
Licence surrenders	133
Licence revocations	20
Cease & Desist orders	12
Undertakings	6
Paralegal terminations	20
Application Denied	2
Total	278

In addition to enforcement actions, FSCO conducts ongoing enforcement monitoring through-out the year. Over the past 12 months, there have been 27,207 instances of enforcement monitoring. The chart below details the types of monitoring that were undertaken.

Monitoring Activities	**Number of Occurrences**
Continuing education audits	392
Police criminal record checks life agents / applicants / paralegals / mortgage brokers	24,397
Complaint reviews	173
Errors & Omissions insurance audits - insurance agents	2,030
Errors & Omissions insurance audits - paralegals	215
Total	27,207

Dispute Resolution Decisions

Type of Decision	Appeal
Date of Decision	February 15, 2005
File Number	P04-00036
Legislation	Bill 59
Appeal Status	No further appeal
Applicant	J.C.
Insurer:	Progressive Casualty Insurance Company
Type of Award	Special award
Amount of Award	$5,000
Issue	In a decision dated September 24, 2004, and reported in the Monitoring and Enforcement Bulletin for the third quarter of 2004, the arbitrator ordered the insurer to pay a special award of $5,000 because it failed to reinstate the insured person's benefits despite mounting evidence of disability. The insurer appealed this decision.
Order	The appeal is dismissed, and the arbitration order dated September 24, 2004, is confirmed.

Type of Decision	Arbitration
Date of Decision	March 8, 2005

File Number	A01-000858
Legislation	Bill 59
Appeal Status	No appeal
Applicant	Marina Bershteyn
Insurer:	Allstate Insurance Company of Canada
Type of Award	Expenses against representative
Amount of Award	$5,033.82
Issue	In the original arbitration decision dated May 28, 2004, the arbitrator dismissed the insured person's claim for benefits and ordered the insured person's representative to pay the insurer's expenses personally. The issue in this decision was the amount of the expenses.
Order	Pursuant to section 282(11.2) of the Insurance Act, Mr. Roland Spiegel, as representative of record of Ms. Bershteyn,is ordered to pay personally the amount of $5,033.82 to Allstate as its assessed expenses in this matter.

Type of Decision	Arbitration
Date of Decision	April 1, 2005
File Number	A02-001360
Legislation	Bill 59

Appeal Status	Under appeal
Applicant	Ruban Thangarasa
Insurer:	Gore Mutual Insurance Company
Type of Award	Special award
Amount of Award	$39,295 (determined in decision dated August 9, 2005)
Issue	The parties disagreed about Mr. Thangarasa's entitlement to income replacement benefits and the amount of those benefits.
Findings	The arbitrator found that Mr. Thangarasa was entitled to receive income replacement benefits at $340.53 per week. He also concluded that, despite a DAC report concluding that Mr. Thangarasa did not meet the disability test, the insurer unreasonably stopped paying benefits in the face of overwhelming credible evidence in support of Mr. Thangarasa's ongoing cognitive impairment. On the evidence before him, the arbitrator was not able to fix the amount of the special award, but indicated that he would place it at about 40% of the benefits outstanding. In a subsequent decision, the arbitrator set the amount of the special award at $39,295.
Order	1. Mr. Thangarasa is entitled to receive a weekly income replacement benefit from February 5, 2001, as claimed pursuant to section 4 of the Schedule. 2. Mr. Thangarasa is entitled to receive $340.53 as the amount of weekly income replacement benefit pursuant to section 6 of the Schedule. Payment of this amount shall commence forthwith, and continue pending resolution of the following outstanding issues.

	The parties shall have 30 days to resolve the issue of the quantum of all outstanding benefits and interest and to make joint submissions as to the appropriate amount, failing which the arbitrator will receive further evidence and submissions on this issue. 3. Gore Mutual is liable to pay a special award pursuant to subsection 282(10) of the Insurance Act because it unreasonably withheld or delayed payments to Mr. Thangarasa, the amount of which remains to be determined. The parties have 30 days to resolve this issue and provide joint submissions as to the quantum, failing which the arbitrator will receive further evidence and submissions on the quantum of the special award. 4. The liability of Gore Mutual to pay Mr. Thangarasa's expenses in respect of the arbitration under section 282(11) of the Insurance Act remains to be determined. 5. The liability of Mr. Thangarasa to pay Gore Mutual's expenses in respect of the arbitration under section 282(11) of the Insurance Act remains to be determined. The parties shall have 30 days to resolve the question of expenses, failing which the arbitrator will hear evidence and submissions as to the appropriate order to be made.

Type of Decision	Arbitration
Date of Decision	April 21, 2005
File Number	A03-001830
Legislation	Bill 59
Appeal Status	No appeal
Applicant	Khunder Al-Hajam
Insurer:	Allstate Insurance Company of Canada
Type of Award	Expenses against representative
Amount of Award	$4,205.61
Issue	The insured person claimed various accident benefits. Neither he nor his lawyer attended at the scheduled hearing.
Findings	The arbitrator found that the insured person's lawyer's "failure to arrange for witnesses on a timely basis, to prepare for an arbitration, or even contact his client to obtain instructions concerning representation fall below the standard expected of a representative or counsel at this tribunal." Consequently, he ordered that Mr. Mohammed Muslim was primarily liable to pay the insurer's expenses.
Order	1. The arbitration is dismissed. 2. Mr. Al-Hajam is nominally liable to pay Allstate's expenses in respect of the arbitration under subsection 282(11) of the Insurance Act. 3. Pursuant to Section 282 (11.2) of the Insurance Act, Mr. Mohammed Muslim, counsel of record for Mr. Al-Hajam, is

	primarily liable for all of the Insurer's expenses, which the arbitrator assessed at $4,205.61, inclusive of GST.

Type of Decision	Arbitration
Date of Decision	May 3, 2005
File Number	A03-001799
Legislation	Bill 59
Appeal Status	No appeal
Applicant	Ellen Borquaye
Insurer:	State Farm Mutual Automobile Insurance Company
Type of Award	Expenses against representative
Amount of Award	$4,307.02, payable jointly and severally by the insured person and her representative.
Issue	The insured person claimed various accident benefits. Neither she nor her representative attended at the hearing.
Findings	The arbitrator found that in the absence of both the insured person and her representative, the most reasonable and just outcome was for them to share responsibility for the insurers expenses.

Order	1. Mrs. Borquaye's claims in this arbitration are dismissed in their entirety. 2. State Farm's claim for a repayment of benefits is dismissed. 3. State Farm is entitled to its expenses in this arbitration, fixed in the amount of $4,307.02, payable forthwith, jointly and severally by Mrs. Ellen Borquaye and Mr. Glenn Bowie.

Type of Decision	Appeal
Date of Decision	March 8, 2005
File Number	P04-00022
Legislation	Bill 59
Appeal Status	No further appeal
Applicant	Iraj Rashidi
Insurer:	Wawanesa Mutual Insurance Company
Type of Award	Award against representative
Amount of Award	$342

Issue	The arbitrator found that Wawanesa provided the insured person's representative, Mr. Khalil Ismaeli, with $342 for documents, but never received the documents. The arbitrator ordered Mr. Ismaeli to pay these expenses personally. This decision was reported in the Monitoring and Enforcement Bulletin for the second quarter of 2004. Mr. Rashidi appealed, including an appeal of the arbitrator's order in respect of Mr. Ismaeli.
Findings	The Director's Delegate dismissed the appeal, finding that the appeal had "no merit."
Order	1. Mr. Rashidi's appeal from the arbitrator's orders of March 23, 2004 and June 16, 2004 is dismissed and the orders are confirmed. 2. Mr. Rashidi shall pay Wawanesa's appeal expenses in the amount of $300.

Type of Decision	Arbitration
Date of Decision	May 30, 2005
File Number	A04-000594
Legislation	Bill 59
Appeal Status	No appeal
Applicant	Rosa Dicerbo
Insurer:	Citadel General Assurance Company

Type of Award	Special award
Amount of Award	$1
Issue	The insured person claimed income replacement benefits, attendant care benefits and housekeeping benefits. The insurer claimed a repayment of benefits already paid.
Findings	The results were mixed. However, the arbitrator found that in terminating Mrs. Dicerbo's income replacement benefits, Citadel sent her to a Designated Assessment Centre that was not authorized to conduct that type of assessment. Although the arbitrator found that this was Citadel's "most blameworthy conduct," he also found that Mrs. Dicerbo suffered little harm and Citadel received no benefit and had no time to rectify its mistake. In the circumstances, he ordered a special award of $1.
Order	1. Citadel General Assurance Company shall pay Rosa Dicerbo weekly income replacement benefits of $400 per week from November 14, 2002, together with interest from November 28, 2002, on each weekly amount at 2 per cent per month compounded monthly, except from January 31, 2005 to March 23, 2005. 2. Rosa Dicerbo's claim for attendant care expenses is dismissed. 3. Citadel General Assurance Company shall pay Rosa Dicerbo housekeeping benefits of $4,160, together with interest from February 15, 2002 at the rate of 2 per cent per month compounded monthly, except from January 31, 2005 to March 23, 2005. 4. Citadel General Assurance Company shall pay Rosa Dicerbo a

	special award of $1. 5. Each party shall bear its own expenses of the arbitration proceeding.

Financial Services Tribunal (FST) Decisions

There are no FST decisions to report for the period.

For the full text of previous Decisions/Orders, please visit FSCO's website at www.fsco.gov.on.ca or visit FST's website at www.fstontario.ca.

Colin McNairn
Chair
Financial Services Commission of Ontario

Chair
Financial Services Tribunal

Bob Christie
Chief Executive Officer
Financial Services Commission of Ontario

Superintendent of Financial Services

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