



IN THE MATTER of the *Insurance Act*, R.S.N.B. 1973, c. I-12

-and-

IN THE MATTER of Michel B. LeBlanc

DECISION OF THE SUPERINTENDENT OF INSURANCE

Date of Decision: 25 May 2018

To: **Michel B. LeBlanc**

REASONS FOR SUPERINTENDENT'S DECISION

BACKGROUND

- [1] This matter involves an application by Mr. Michel LeBlanc for a Life, Accident and Sickness Agent Licence pursuant to subsection 352(1) of the *Insurance Act*.
- [2] Mr. LeBlanc was previously licensed as a Life, Accident and Sickness Agent from January 1990 until December 2015. His last licence expired on 31 December 2015. Mr. LeBlanc submitted an application for a licence on 12 December 2017, with the Knights of Columbus as his sponsoring insurer.
- [3] In his application, Mr. LeBlanc checked the box beside the following statement:

“I have not been subject to investigation by and/or discipline from, nor am I aware that I am currently the subject of an investigation, by a regulatory body in either Canada or the United States of America.”
- [4] As a result of a previous review undertaken by the Financial and Consumer Services Commission (FCNB) following an insurance related complaint received in May 2016 involving Mr. LeBlanc, FCNB staff were aware of both our previous review as well as prior investigations by the Mutual Fund Dealers Association (MFDA).
- [5] In light of both the failure to disclose his previous regulatory history and the existence of a previous regulatory history, staff of FCNB undertook a more detailed review of Mr. LeBlanc's application to determine his suitability to hold a Life, Accident and Sickness Agent Licence. Via e-mail dated 18 December 2017, our compliance staff requested Mr. LeBlanc provide to them an explanation of why his prior regulatory history was not disclosed on the application form; a list of all decisions, investigations and/or regulatory reviews conducted against him; an indication of whether any regulatory actions were still active; copies of all reports and correspondence that he received from the MFDA regarding their investigations; and the details of any complaints lodged against him with his former securities dealer.
- [6] In his response of 18 December 2017, Mr. LeBlanc apologized for misinterpreting the question regarding his regulatory history and indicated that he had understood the question to be referring only to current or outstanding complaints that he was aware of, of which he indicated he was not aware of any. He further provided information on four MFDA investigations and decisions in his file that he was aware of, and indicated all had been rendered in his favour.
- [7] Further review and inquiry on the part of FCNB staff to Mr. LeBlanc and to his previous mutual funds dealer (Investia Financial Services Inc.) revealed that a total of five MFDA investigations have been undertaken in relation to Mr. LeBlanc, with all finding evidence of a breach of various MFDA rules including failing to hold a high standard of ethics and conduct while conducting business, unapproved outside business activity, pre-signed forms, and unsuitable recommendations. To date, a total of thirteen complaints have

been lodged against Mr. LeBlanc with Investia Financial Services Inc. (Investia), with two of those being dismissed with the leveraging deemed suitable, eleven of those complaints resulting in offers of compensation from Investia and eight of those resulting in settlements being paid. The settlements paid total \$212,839.34, with one being paid by Mr. LeBlanc's Errors and Omissions insurer (\$14,856.00) and the remainder paid by Investia directly.

[8] Following a thorough review of Mr. LeBlanc's application and the information received through follow-up inquiries, staff presented the Superintendent with a report and recommendations. In the report, staff recommended that Mr. LeBlanc be denied a licence on the grounds that he is unsuitable to hold a Life, Accident and Sickness Agent Licence.

[9] A copy of the report was provided to Mr. LeBlanc by letter dated 27 March 2018. In the covering letter accompanying Mr. LeBlanc's copy of the report, he was notified of his right to be heard in writing or in person and that he had the right to be represented by a lawyer or agent.

[10] In an e-mail dated 2 April 2018, Mr. LeBlanc indicated that he would like an opportunity to present his case before the Superintendent. An opportunity to be heard was scheduled for 27 April 2018.

[11] The opportunity to be heard commenced on 27 April 2018 at 10:00am and terminated at approximately 11:10am. In attendance were Mr. LeBlanc, Mr. Martin Bourgeois (General Agent, Knights of Columbus Insurance), Mr. David Weir (Deputy Director, Insurance), Mr. Robert Picard (Compliance Officer, Insurance), and the Superintendent. The Superintendent explained that she had a copy of the report prepared by staff with their recommendations, had read it, and that this was Mr. LeBlanc's opportunity to address anything in the report he wished to address or bring forward any information he wanted the Superintendent to consider prior to her making a formal decision on the matter. She also explained that staff would have a brief opportunity to address any information presented, that she would have some questions, and that Mr. LeBlanc would have an opportunity to address anything mentioned by staff or any questions from the Superintendent.

FACTS

[12] After reviewing the information submitted by staff in their report, and the information provided by Mr. LeBlanc during the opportunity to be heard, I find the following as facts:

[13] Mr. LeBlanc held a licence as a Life, Accident and Sickness Agent from January 1990 until December 2015.

[14] Through most of that timeframe, Mr. LeBlanc was dually licensed with securities. He split his efforts equally between the securities area and life insurance area, with his estimate being that 2/3 of his mutual funds clients also placed life insurance policies through him.

[15] To date, Mr. LeBlanc has been the subject of one complaint filed with the Superintendent of Insurance. He has also been the subject of at least five MFDA investigations/complaints, and thirteen complaints filed with Investia, his mutual funds dealer. While some of the complaints filed with Investia deal with the same clients covered by the MFDA complaints, at least five do not. The complaints filed with Investia have resulted in at least eight settlements being paid to clients, totalling \$212,839.34. A number of these complaints were filed after Mr. LeBlanc left both the mutual funds and insurance industries at the end of 2015.

THE COMMISSION'S MANDATE

[16] The *Financial and Consumer Services Commission Act*, in Section 2(a) provides that the purpose of the Act is to 'enable the Commission to provide regulatory services that protect public interest and enhance public confidence in the regulated sectors...'

[17] The *Financial and Consumer Services Commission Act*, in Section 12(2)(b) provides that *the Commission shall administer the financial and consumer services legislation, which, as per subsection 1(l), includes the Insurance Act.*

[18] Prior to refusing, suspending, cancelling or imposing terms and conditions on a licensee, the Superintendent must consider the appropriateness of any action taken. In making this determination it is necessary to consider the mandate of the Commission and whether or not the applicant is suitable to hold a licence.

[19] Consumer protection is a fundamental consideration and a key purpose of the Commission's mandate. It is a key responsibility of the Superintendent, as the gatekeeper to the industry, to determine suitability of an applicant or a licensee and allow that person to operate in the sector.

ANALYSIS

[20] The Commission's primary purpose is to protect the public and enhance public confidence in the financial marketplaces which it regulates. This includes ensuring that individuals carrying on business in the industry are competent and trustworthy. It also includes ensuring that when a licence is granted, any potential risks to consumers are minimized.

[21] Although, to my knowledge, Mr. LeBlanc was licensed in both the insurance and securities industries for approximately seventeen years with no complaints received, he was the subject matter of a significant number of regulatory complaints and investigations during the latter part of his career from 2007 onwards. Many of these investigations have found breaches of MFDA rules, including failing to hold a high standard of ethics and conduct while conducting business, unapproved outside business activity, pre-signed forms, and unsuitable recommendations. At least eight complaints have also led to settlements being paid by Investia to clients, which indicates to me that Investia found some liability on the part of Mr. LeBlanc in his dealings with those clients.

[22] To his credit, for the most part, Mr. LeBlanc did not try to minimize the seriousness or validity of these complaints during the opportunity to be heard. Rather, he indicated that the individual outlined in the report was not him, but was rather a snapshot of a very difficult period in his personal life. He indicated he had also done a lot of good during his career and had helped many people. While I do not doubt that Mr. LeBlanc has helped people during his career, I cannot ignore the significant compliance history that exists in the securities industry during the latter part of his career.

[23] Mr. LeBlanc did take some issue with the claims paid by Investia, indicating that he didn't understand how the files could be found to be unsuitable investments now when they had all been checked by compliance at the time of sale. He indicated that he had never had a chance to explain why the investments were suitable during the investigations, since he was not made aware of the investigations. He feels it may have just been more expedient for Investia to pay out the settlements to make the complaints go away, rather than getting his side of the story and fighting the matters. While I have no evidence of the analysis that Investia undertook prior to offering to settle the complaints, I cannot accept that they would pay out in excess of \$200,000 without some evidence of a breach that would attract liability.

[24] I also have concerns with the lack of disclosure of this history. While Mr. LeBlanc indicated he was unaware of all but the four MFDA investigations outlined in his e-mail of 18 December 2017, I have difficulty accepting this. Although Mr. LeBlanc stated that all letters were addressed to a previous mailing address, and that he had moved twice in the interim period, I note the letter to him from FCNB regarding the insurance investigation was also e-mailed in the fall of 2016 to the same e-mail address that Mr. LeBlanc used on his licence application of 12 December 2017. I also note that Mr. LeBlanc's book of business with Investia was reassigned to RoyByrns & Associates when Mr. LeBlanc's mutual funds licence was terminated in late 2015. Mr. LeBlanc has been employed continuously with RoyByrns & Associates since January 2016. While Mr. LeBlanc indicated he worked from home for RoyByrns & Associates, rather than at their offices, I find it hard to fathom that investigations into eleven files within his current employer's possession on which Mr. LeBlanc was the advisor during the relevant time period, could be investigated and an offer for compensation made without any knowledge on the part of Mr. LeBlanc.

[25] Both Mr. LeBlanc and Mr. Bourgeois argued that sometimes people need a second chance, and that the good Mr. LeBlanc has done outweighs the bad. I do not disagree that sometimes people do need a second chance. However, the ability to grant that second chance must be balanced against the risk of potential harm to consumers from granting it. Given the significant compliance history on the securities side, there is a real risk of non-compliance in the performance of Mr. LeBlanc's duties on the insurance side that cannot be mitigated against through conditions and supervision. Both securities and life insurance activities fall within the financial services industry, and a history of compliance issues in one sector should not and cannot be ignored by the regulator in the other sector.

[26] Therefore, I agree with staff's recommendation that Mr. LeBlanc be denied a licence on the grounds that he is unsuitable to hold a Life, Accident and Sickness Agent Licence.

DECISION

[27] As a result of the foregoing, I hereby decide as follows:

- a. Mr. Michel LeBlanc is unsuitable to hold a Life, Accident and Sickness Agent Licence;
- b. Pursuant to subsection 352(3) of the *Insurance Act*, Mr. Michel LeBlanc's application for a Life, Accident and Sickness Agent Licence is denied.

Issued at Fredericton, New Brunswick this 25th day of May, 2018.

originally signed by

Angela Mazerolle
Superintendent of Insurance