



**The CIP Society
Ethics Series**

Coincidental Run-in

The CIP Society
Insurance Institute
of Canada

The CIP Society represents more than 17,000 graduates of the Insurance Institute of Canada's Fellow Chartered Insurance Professional (FCIP) and Chartered Insurance Professional (CIP) Programs. The CIP Society, through articles such as this, is working to bring ethical issues to the forefront and provide learning opportunities that enhance the professional ethics of all insurance professionals.

What if a broker accidentally overhears a personal conversation on the street that is directly related to a client's decision to cancel a policy? What possible responses are available to the broker, should he or she decide to employ a rules-based, people-based or situation-based approach?

A client stops in at the office of his local insurance broker to advise that he wants to cancel the coverage on one of his vehicles, effective immediately. The client explains that he forgot he was still paying the premium on this car since the payment came out of his bank account automatically every month and he seldom thought about it.

Six months earlier, he had concluded a very messy and acrimonious divorce and no longer retained the car as part of the settlement. It was

an older car, long since paid for, and he had signed off the ownership documents months before when concluding the divorce. His original plan, months ago, was to scrap the car because it was becoming unreliable and unsafe. He said he neither knew nor cared what his ex-wife did with it.

Later that day, the broker stepped out of the office to grab some lunch. She recognized the old car that formerly belonged to her client as it drove up and parked right in front of her. She had never personally met the client's ex-wife, but certainly recognized her. The broker overheard the ex-wife say to her friend that although the car is in bad shape, she will keep driving it as her ex-husband is still paying the insurance on it.

Feeling conflicted, the broker held confidential information from her client about the cancellation of the policy that was in his name. At the same time, she held confidential information based on a conversation she overheard.

What do the rules suggest she do? Is that in conflict with what is called for in the situation? What would her client want her to do? What about the insurer? Are the rules, the situation and the moral approach at odds with one another?

Illustration by Scot Ritchie

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Registered Insurance Broker (Ontario)

Dusome Insurance Brokers Inc.

The RIBO rules of conduct state that, “a member shall hold in strict confidence all information acquired in the course of the professional relationship concerning the business and affairs of the member’s client, and the member shall not divulge any such information unless authorized by the client to do so, required by law to do so or required to do so in conducting negotiations with underwriters or insurers on behalf of the client.”

The broker should contact her client and advise him of the conversation that she overheard on the street. The insured will then have to decide if he wants to proceed with the cancellation or keep the insurance in force until this matter can be resolved.

It should also be suggested that he either contact his ex-wife directly or his divorce lawyer to have the lawyer either notify the spouse that the insurance is cancelled or to advise her that the vehicle is no longer registered to the husband and she needs to obtain her own insurance policy.

With respect to the insurer; the company cannot insure a vehicle that the client does not own; therefore, if he is no longer the registered owner, there is no reason for the insurer to question the cancellation.

Morally, the broker knows the client does not have the vehicle and that the car is being driven by his ex-wife. If the cancellation proceeds, the vehicle will be driven without insurance.

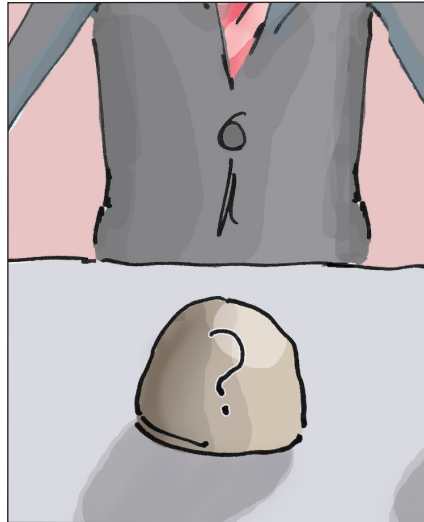
The broker should encourage the client to keep the policy in force for a few more days to resolve the matter and to notify the insurance company of this situation.

Elliott Spagat

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The situation described presents unique problems as the issues of insurance requirements, privacy concerns and divorce law are at odds. As a broker, the first



From a rules-based approach, if the client is the only named insured on the policy, the broker can, in fact, do nothing. However, to avoid possible errors and omissions exposure in the future, the broker may want to request additional information from her client at the time of the cancellation to confirm what is being assumed is true.

responsibility is to the client.

In this scenario, the vehicle was given to the ex-wife in the divorce settlement; in that case, the lawyers involved should have ensured the ownership was transferred from the client to his ex-wife.

The *Insurance Act* requires that the named insured on a policy be the same as the registered owner of the vehicle. As such, the ex-wife should have purchased an automobile liability policy at the time she assumed ownership.

The broker is following the directions given to her by her client; she is not aware of the terms of the divorce. Perhaps, one of the terms was that while

the ex-wife received the automobile, the husband was responsible for the payment of insurance premiums. The husband, deciding that he did not want to abide by the terms of the settlement, decided to cancel the policy.

The broker should not be the one to approach the ex-wife and inform her of her client’s instructions. Instead, the broker should immediately contact her client and advise him to contact his lawyer. The lawyer can then pass the information to the ex-wife’s lawyer to let him or her know that the insurance has been removed from the vehicle and that the ex-wife should stop driving the car until such time as she has placed coverage.

Fred N. De Francesco, CIP

President

Fairview Insurance Brokers Inc.

Let’s examine the Ontario Automobile Policy to arrive at an opinion. As the name implies, the policy is issued to the registered owner of an automobile. That registered owner is, in fact, the named insured to the policy, and all other operators with consent being designated in most cases as insureds only.

Spouses and dependents may share the title of named insured status in some cases even though they are not owners of the automobile.

At the time the automobile in question was insured, assume that the policy was correctly issued in the proper name. The ownership and control of this policy is solely in the hands of the owner. His intention to cancel the policy rests with him and the broker’s obligation at this point is to process the wishes of the named insured.

Given the scenario provided, I believe the broker has two choices. The first is to do nothing. The broker acted properly in the cancellation and the failure to have insurance on this vehicle is due to negligence on the part of the new owner and her legal advisor.

The broker’s second choice is that after overhearing the ex-wife, she could have approached her and merely offered

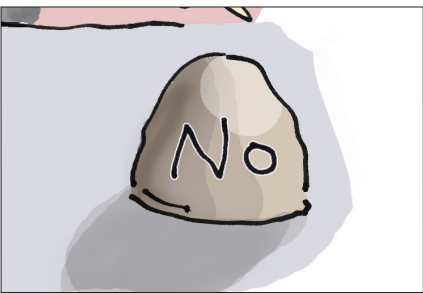
a professional opinion on the conversation without providing any details that may have disclosed issues surrounding privacy. I am sure the ex-wife would appreciate the advice of a professional and would rectify the problem on her own.

THE LAST WORD

This month's scenario provides an interesting opportunity to examine the facts using three different approaches to ethical decision-making. Using multiple approaches highlights the difficulty in determining the right course of action, and shows that ethical dilemmas may have more than one possible outcome.



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tional information from her client at the time of the cancellation to confirm what is being assumed is true.

For example, the broker can request additional details about the separation agreement to determine what is included with respect to the vehicle.

The situation could also be approached using a people perspective, in which case the broker should consider how the

various parties would like to be treated, balancing that against privacy laws and codes of conduct.

In this example, the broker can weigh her client's rights and expectations of privacy with the needs of the ex-wife. If she puts herself in the ex-wife's shoes, the broker would realize that she would definitely want to know the ex-husband is no longer paying for coverage.

Finally, from a situation-based approach,

various possible outcomes to the scenario have to be examined. The broker could determine that the gravest potential outcome would be if the ex-wife was involved in a serious accident while uninsured.

In this case, the broker may want to notify the client to ensure that he knows the situation and that he understands it is important to notify the ex-wife as soon as possible. ≡