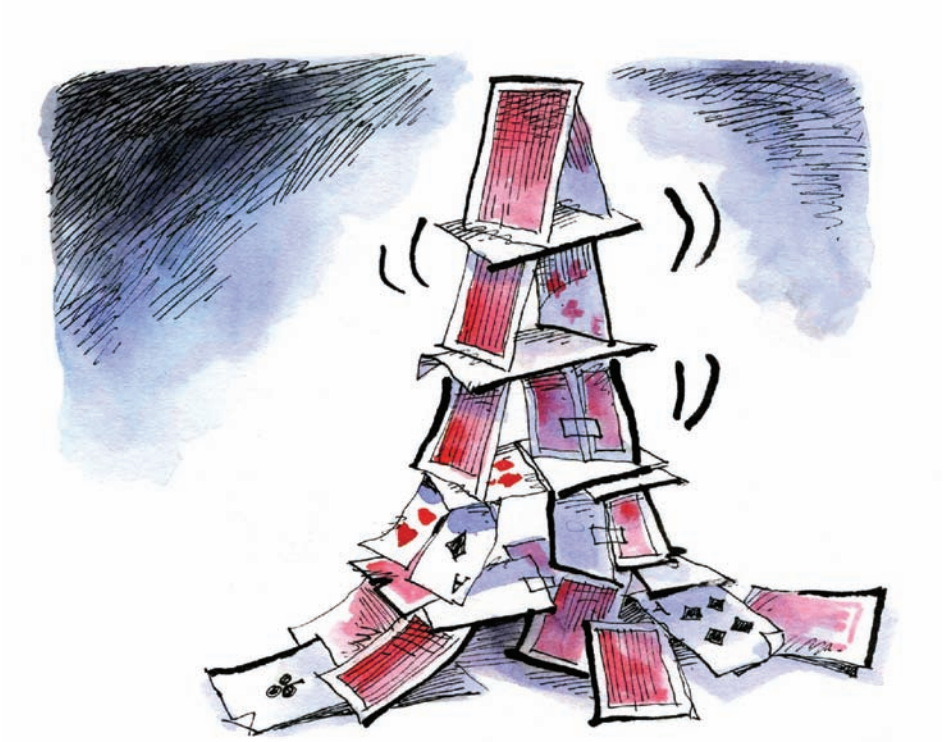

Suspicious Minds

The CIP Society Ethics Series

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 happens when a claims adjuster becomes suspicious while going through a claim. Hearing about the insured's reputation, the adjuster cannot shake his suspicions, and starts treating the insured differently. Is this behaviour unprofessional or unethical?

While engaged on a file involving a large loss, a claims adjuster, feeling that something is not as it should be, becomes suspicious of the insured. Despite the paperwork being in order — each of the necessary bits of required information has been provided, and the cause of the loss appears to be reasonable — this does not remove the adjuster's suspicions.

The insured has a reputation, mainly for unscrupulous dealings and for behaviour that has come close to skirting the law. The reputation reaches the claims adjuster, who begins observing the insured through this lens. The adjuster questions whether or not he is treating the insured fairly, and feels a different tone creeping into his conversations with the insured. Is the adjuster being unprofessional and/or unethical?

Luc Aucoin, BBA, FCIP

Adjuster
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The role of an independent adjuster is to remain objective at all times and to conduct even-handed investigations. A seasoned adjuster will deal with facts only, and at all times remain unbiased. All investigations must be performed in good faith and with fairness. An adjuster has a duty to investigate, negotiate and settle claims, but as loss adjusters, it is also necessary to verify, verify and verify all information and determine what is factual.

The adjuster in this case allowed innuendos to cloud his judgment and emotions as reflected by his tone in dealing with the insured. This, in turn, may affect his objectivity. The temptation to reach conclusions on "gut feelings" can lead to difficult outcomes. A good and experienced loss adjuster must avoid such pitfalls and remain purely objective in the assessment of a loss.

Anytime a suspicion arises, it should not be ignored and should be explored. However, if

Illustration by Dave Whammond/threeinabox.com

that suspicion leads to nothing and cannot be reinforced with factual evidence, the adjuster must focus on the facts.

True professionalism and ethical conduct is required in the handling of all investigations, and insureds with questionable reputations are entitled to the same treatment as any other, unless the facts support otherwise.

An adjuster should protect the insurer from a fraudulent claim by reporting all facts made known throughout the investigation. As such, it is necessary for the adjuster to walk a fine line between collecting information that may determine if a claim is fraudulent and ensuring fair treatment of the insured. If the authorities are involved in the investigation of a suspicious loss, it is crucial that the adjuster allow the authorities to do their job without interference. Once the authorities have reached a conclusion, facts surrounding their findings can be ascertained and conveyed to the insurer.

As professional loss adjusters, it is necessary to always reach conclusions or provide recommendations based on facts, and any decision to honour or decline a claim can only be based on what the evidence supports.

Miles Barber, B. Comm. (Hons.), FCIP, CRM, RF
Executive Adjuster
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In the aforementioned scenario, the adjuster is handling a large loss, presumably a fire or burglary. Although everything seems to be in order, when the adjuster becomes aware of the insured's reputation, his interactions with the insured start to change.

Is the adjuster acting in an unprofessional or an unethical manner? Admittedly, the insured's reputation has caused the adjuster to take a different tone during conversations between the two, which is unprofessional.

Contracts, by their nature, imply a covenant of good faith and fair dealing that no action of one party will affect the rights of the other party. An insurer is expected to act in good faith and deal fairly when handling its insured's claims. By extension, that duty falls on the adjuster representing the insurer.

To consciously breach the duty of good faith and fair dealing by ill will or misconceived prejudice may open the door to a bad faith claim against the insurer and/or adjuster in the future.

Regardless of whether or not the adjuster's "spidey senses" are tingling during adjustment of the claim, the adjuster would be well-advised not to rely on subjective and unfounded rumours when making decisions regarding coverage or quantum evaluation of the claim. To do so could see the adjuster ride the slippery slope from unprofessional conduct to unethical conduct.

In the event the origin and cause of the loss are verified, and the damage arising therefrom is properly documented, the claim adjustment should not be impeded simply by perceived reputation of the insured. The adjuster has a variety of investigative tools available to determine the origin

and cause of the loss. Reports from police and fire officials, as well as privately commissioned forensic engineering reports, may be used.

Similarly, the adjuster has other means to examine the damage claim advanced by the insured. Building appraisers and contents evaluators may be used to assist in the development of the proper quantum associated with the damage claim.

In this manner, whether or not the adjuster "senses" that something is not as it should be, the adjuster will be conducting an objective investigation and handling the claim professionally. Whether the investigation reveals some level of hard or soft fraud on the part of the insured will be determined as a byproduct of a thorough and objective investigation and handling of the claim.

As a professional, the adjuster should not allow his adjustment of the claim to be clouded by his perception of the insured's reputation.

Marie Gallagher, FCIP, CRM
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Independent adjusters are often asked by insureds, "Who are you acting on behalf of — me or my insurer?" My view is that an adjuster's job is to gather facts to help the insurer determine whether or not the loss is one covered by the terms of the policy of insurance and, if so, to help quantify the covered loss.

Each policy provides for various coverages, and each type of coverage is subject to certain exclusions. If the loss is one that is covered, the job of both the adjuster and the insurer is to indemnify the insured as per the provisions of the insurance contract.

In the scenario provided, it would appear there is no question that the loss arose from an insured peril and, therefore, one to which the policy would respond. What appears to be of concern is whether or not the loss may have been caused by an intentional act (an exclusion under the policy) or, possibly, exaggeration of the value of the claim.

It would appear the adjuster was suspicious of the loss from the get-go. To balance his suspicions with the facts, the adjuster should maintain a sense of awareness to things that do not make sense, ask questions and obtain facts. If the facts do not make sense, the adjuster should communicate that to the insured and ask more questions if need be. If something still does not make sense, more questions should be asked, documents obtained to substantiate and quantify the loss, and more information requested until things are clear.

The adjuster must keep in mind that both the insurer and the insured are parties to the insurance contract and their interests are equally weighted. The adjuster must proceed in a way that maintains a good relationship with both sides.

Throughout the process — from the initial investigation to explaining the claims procedure, communicating to the insured what needs to be done to satisfy policy requirements, following up to check progress, and verifying and validating information and documentation provided — it is essential to keep an open mind while still questioning what does not make sense.

Adjusters are only human, and perhaps all are a tad suspicious as a result of having dealt with fraudulent and/or exaggerated claims over the course of their careers. While there may be situations that get "spidey senses" tingling, most claims that adjusters deal with are not suspicious. When that does happen, that investigation should be handled the same way as any other. It may simply be that the regular process is a little more in-depth, requires asking more questions and may take longer to complete.

THE FINAL WORD

To treat all insureds fairly, adjusters must walk a fine line to ensure hearsay and other unverified information do not interfere with the ability to conduct an unbiased investigation. In this scenario, the adjuster stepped over that line by treating the insured differently based on his unsavoury reputation alone.

The adjuster must keep in mind that both the insurer and the insured are parties to the insurance contract and their interests are equally weighted. The adjuster must proceed in a way that maintains a good relationship with both sides.

Ideally, a thorough claims investigation will reveal all that is required for the claim to be processed fairly, and any fraudulent behaviour will surface where it exists. In reality, not all investigations require equal resources, and it is often the adjuster's experience that determines what is appropriate for the investigation at hand.

There are many investigative tools available to help the claims process progress smoothly, and the adjuster must figure out which tools will ensure a fair outcome for both the insured and insurer, while treating both parties with consistency.

In the end, the adjuster's experience can help with determining when to investigate further, but any judgments must be reached based on facts revealed by the investigation. By sticking to the facts, the adjuster avoids any conflicts that can lead to unfounded decisions and less than optimal outcomes for the insured and insurer.