

The Road to Greener Pastures

Brokers with excellent track records may be tempted to branch out into other areas of business, raising a duty to tell the clients when they are travelling in unfamiliar territory.

The CIP Society Ethics Series

The CIP Society Insurance Institute of Canada

The CIP Society represents more than 16,000 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.

An energetic broker established an excellent track record and reputation for advice and service in personal lines insurance. But he was also contemplating the notion of expanding his business in the area of volume, product offering or both.

A loyal client suggested that the broker consider commercial lines insurance, offering his company's policy as a starting point. The client provided his existing policy contract in order to allow the broker to shop around and make an "apples-to-apples" comparison. Fortunately, the broker was able to compete on price and provide the same coverage for a lower premium.

But the broker felt uncomfortable. He didn't feel as though he provided any value or advice to the client about coverage and other considerations. Then again, he felt he wasn't equipped to do so because he lacked experience in this aspect of the business.

The broker was also concerned because he recalled a casual conversation with the client in the recent past, in which the client mentioned he was expanding his business and investing heavily in automation and technology.

What are the ethical considerations of this broker dealing with an account that is beyond his level of expertise? Has the broker acted unethically, and if so, in what ways? Should he have handled this case differently? What should he do now?

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One of the most important aspects of the broker role is to be a trusted advisor. As such, there will be occasions in every portfolio when we are asked to provide advice on a risk outside of our experience or expertise. In these circumstances, our responsibility is to advise the client we will be researching their prospective needs to encompass alternate solutions best suited to his or her requirements, by finding and using resources within and outside our industry.

Fortunately our industry is well-equipped with resources, including seasoned underwriters, claims adjusters, inspectors, appraisers, risk managers, loss prevention specialists, insurance institute consultants and insurance lawyers. Best's

Underwriting Guide and reputable internet resources can also serve to understand a risk.

As for the example cited, no broker should quote a policy “apples to apples.” It’s the broker’s role to ensure that there are no mistakes. The broker should do all of the necessary homework, including reviewing, among other things, all the exposures and solutions as well as changes to operations, inflation, market conditions, contracts, assets, construction and security information, risk management procedures, leases and loss experience.

By finding and using the expertise of others, a broker can write a risk outside their experience.

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In my experience, most brokers aspire to write larger and more complex accounts as they progress through their careers, so the above scenario is certainly common.

It would appear from the scenario presented that the client was well-aware of the broker’s inexperience in the field of commercial lines insurance. However, I would expect the broker to have warned the client at the beginning of the process that there are major differences between personal lines and commercial lines products, and that he is not experienced enough to detect potential gaps in the client’s insurance program as it currently exists.

As such, I would also expect the broker to have aligned himself with a more experienced commercial lines broker to act as “mentor” during this process to help him identify problems with the existing coverage. If he has done these two things, in my opinion, he has acted ethically and can sleep with a clear conscience. Having said this, the broker has an ongoing responsibility to provide his client with knowledgeable advice regarding his insurance program, especially as the client expands its operations. He can’t continually rely on other people to provide this advice for him.

The broker should be able to achieve this goal by means of completing any

or all of the following:

- **Going back to school.** These days, almost every brokerage is keen to support the education of its employees. There are many resources offering courses, seminars, workshops and more on just about any topic you can imagine. The broker can’t go wrong by extending his formal education to include insurance-specific or industry-specific teachings, especially those that cater to his new client’s needs.

- **Learn from his underwriters and the underwriting process.** In marketing the account, the broker would have had to collect detailed information to pass along to underwriters. Chances are the underwriters had questions that necessitated going back and forth with the client. A good broker will pick the underwriter’s brain and find out the reason behind the questions, in order to understand how the answers affect the coverages offered. The broker can also use the underwriter as a valuable resource by asking his own

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questions about how coverage could be improved for the client being quoted. Underwriters can be very helpful if they know you want the help: all you have to do is ask.

- **Learn from his fellow brokers.** Chances are, someone in the brokerage — be it the principal broker or simply someone with more commercial lines experience — would be willing and able to help this broker through the marketing process and provide advice throughout the policy term. If the brokerage really is focused on personal lines, and a commercial lines “expert” is not available, then the broker needs to expand his network to include brokers from other offices. The insurance community is just that — a community. Even though we are competitors, many of us are colleagues, friends and mentors. The vast

majority of us are eager to embrace and enhance the professional image of the insurance broker, so helping colleagues is second nature.

In short, there is nothing wrong with a broker taking on more advanced accounts, provided that he is committed to learning how to properly protect his clients and has the support and resources necessary to help him through this learning process and maintain the client’s best interests. After all, we all have to cut our teeth somehow.

LAST WORD . . .

According to the Insurance Institute’s Code of Ethics governing all CIPs and FCIPs: “Institute graduates shall use due diligence to ascertain the needs of their client or principal and shall not undertake any assignment if it is apparent that it cannot be performed by them in a proper and professional manner.”

The broker in this scenario, and all industry professionals, should be providing the appropriate and necessary products and services to their clients in a professionally ethical manner.

The insurance contract is all about utmost good faith and full disclosure on both sides of the relationship. In this scenario, the key to success is for the broker to be honest with himself and the client about his past experience and his limitations. If he takes on business he doesn’t fully understand, he could be doing more than just taking a calculated risk: if he’s led the client to believe he understands something that he does not, he is acting unethically.

When a broker wants to grow his or her business and expand into new territory, that is usually a good thing. We should all be striving to learn new things and grow, both personally and professionally. However, before venturing into new areas, brokers should anticipate that it will require new knowledge and training, and that gaining necessary experience will take time. By making the most of his or her network of insurance industry professionals, and by accepting new learning opportunities, the broker can continue to provide the best counsel to his or her clients. ≡