

Who do You Tell?

A seasoned broker who maintains good relationships with current and former clients notices that she is losing business to another producer. Upon investigation, she discovers the advice being provided by the other broker may be putting clients at risk. What's an ethical broker to do?

**The CIP Society
Ethic 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.

A seasoned commercial broker with a solid reputation in both the industry and the community made it a habit to stay in regular contact with her clients. Recently, she had noticed some clients were not renewing their policy contracts and that she was losing in competitive situations. Clients suggested that pricing was the issue, and although they trusted and respected her, as well as appreciated her advice, they owed to their shareholders the lowest price they could obtain.

As well, the broker noticed she was also being outbid when trying to develop new business. It was evident she would need to complete an analysis of what was going on.

In discussions with clients and former clients with whom she maintained trusted relationships, she discovered she was consistently losing business to the same broker. While conducting a comparative analysis of the policy documents she was permitted to examine, she discovered the clients were not getting the proper coverage, leaving them quite vulnerable in many cases. In addition, it appeared the competitor in question was also telling clients things that were untrue. Looking deeper into this issue, the broker discovered this competitor was fairly new in town and that he had a reputation for questionable

dealings, similar to this, in his previous town.

The seasoned commercial broker was distressed for several reasons. She was concerned for her clients (and former clients) regarding their risk exposure, and also because her book of business appeared to be under attack by an unscrupulous operator. She was also uncertain as to who should be informed: for example, the regulators, her employer, her clients, etc. Knowing that this discreditable conduct must not be allowed to continue, who should she tell?

Tracy Makris, CIP

President

Bryson & Associates Insurance Brokers Ltd.

The commercial broker, who has a solid reputation and maintains trusted relationships with her clients, must first conduct her own due diligence to ensure that all facts and information received can be verified. If it can be confirmed that inaccurate and potentially damaging advice has been given to a client, the broker should bring immediate attention to those who may be affected: the client, the brokerage of the unethical broker, and the insurance company.

The broker should draw attention to the issues with the client in a professional manner. She should

highlight the coverage discrepancies by performing a comparative analysis and by providing examples of where the consumer may be exposed. This should all be based on factual information, professional experience and real-life scenarios to ensure that no ambiguity exists.

I would also recommend the broker disclose the situation to her principal broker. The principal broker can, in turn, evaluate the information and, if required, advise regulators (including RIBO), who accept consumer complaints and inquiries from other brokers.

As professionals, it is necessary to work together to ensure the industry's integrity is intact. It takes years to create professionalism and to develop trust among customers.

Doug Laird, BSc., FCIP

President

McLean & Shaw Insurance Inc.

In this scenario, I would recommend the professional producer contact her past clients, outlining some of the con-

cerns she has with respect to coverage, or the lack thereof, and pricing. It could be that the competitive broker sold the clients less coverage without their full knowledge. If the clients felt they were misled, I believe it is for them to address these issues with the regulators. The broker can certainly provide assistance if required.

The professional producer should also inform her employer, who may know the owner of the brokerage employing the unscrupulous producer. I would suggest the last thing the owner of this brokerage would want is an issue with his or her reputation based on how this broker conducts his business. Most often, the type of behaviour described in this case can be addressed at this level.

I believe the insurance industry has done a decent job of educating clients about coverage and pricing. I also believe that longer-term relationships with brokers and insurance companies are beginning to see their true value with clients. Less often do I see risks lost on

price alone. While price is a factor in the overall risk assessment, coverage, service and claims adjudication is equally important and would have to be taken into consideration in the overall evaluation of this particular case.

Keith Miller, CIP, CRM

Commercial Marketing Manager

W.B.White Insurance & Financial Limited

Any broker who submits a questionable risk to a company without disclosing all the material facts is surely going to be found out in the long run. In time, that broker will lose the trust of the underwriter, and without trust, the relationship is worthless. Relationships are everything, both in business and in personal life.

So what to do if one suspects that a competitor is not providing complete, accurate information? One of the most important points is not to slander the other broker. There could always be extenuating circumstances of which you are unaware.

The broker should highlight the coverage discrepancies by performing a comparative analysis and by providing examples of where the consumer may be exposed. This should all be based on factual information, professional experience and real-life scenarios to ensure that no ambiguity exists.

Bearing in mind the clients, we have to take their potential for disaster into consideration. The clients are the reason we are in business and we are obligated to protect their interests. If we ignore the situation, knowing full well they could have a loss that would not be covered, we have done them a disservice.

Generally speaking, without knowing all the facts, I would contact the clients and point out the merits of my proposal. Rather than finding fault with the competitor's quote, I would advise the clients that their policies are a contract with the insurance company. The policy requires that both parties act in utmost good faith.

All information provided to the insurance company is a condition of the policy and could affect how a claim could or could not be paid.

Nazir Haji, CIP

Senior Vice President, Business Development
AEGIS London

The scenario raises a number of issues and is a symptom of several underlying problems. First, it is recommended the broker contact local insurance licensing authorities so they can conduct a comprehensive review of the unscrupulous broker and his past dealings. The local licensing board maintains complaints, activities and so forth.

If the board does not have anything on the broker, it would be a good time to start tracking.

Second, the broker may want to contact the unscrupulous broker's previous employer. The end result may be that the broker has some restrictions placed on him by markets and restrictions from his E&O carrier.

Nadine Austin, FCIP

Senior Investigator
Complaints & Investigations Department
RIBO

The fundamental issue is integrity. Price and competition will always be an issue, but dishonest representation of a risk to get business is a discredit to the reputation of the industry as a whole and goes beyond a book of business under attack by a competitor.

This broker may be losing some business today, but she stands a pretty good chance of getting it back in the future if she loses it to a broker who uses unscrupulous methods. She must leave her clients with a good opinion of her and her work ethic.

So how does she get the point across to her clients without it appearing to be sour grapes?

Because the broker has been given the opportunity to review the competitor's quotations, the broker has a moral obligation to bring possible coverage shortfalls to the attention of clients. She should write a letter to her clients thanking them for sharing the new quotation with her and highlighting the differences between the two policies. The point has been made without saying anything negative. At the same time, she has protected herself.

Next, she should let her employer know what is going on and the steps she took to safeguard her position. Her employer may have some suggestions as to how she might maintain her book of business when it is under attack.

Last, the regulatory body does want to have unprofessional behaviour reported to it. Rules of professional behaviour dictate it can be considered an act of misconduct not to report unprofessional behaviour. However, if the broker

has heard that the competitor is saying things that are not true, those allegations must be supported with proof.

In other words, the person must put into writing what he or she has heard and must agree to stand behind it when questioned by the regulator. Otherwise, the comments are hearsay and cannot be proven.

THE LAST WORD

As professionals, we have a certain expectation that the people with whom we work, as well as compete against, are playing by the same rules. When it is discovered that someone is not acting in a professional way, we cannot ignore their actions, especially if those actions have the potential of harming our clients.

In this scenario, when a competing broker provides what appears to be insufficient coverage to clients, we must do our due diligence to ensure clients understand the discrepancies between the two contracts and what that means for them at claim time. By doing so, we are ensuring our clients are making informed decisions about their insurance needs, and that we have done all we can to help them protect their assets.

Although it is tempting to call out unprofessional behaviour right away (and loudly), we should understand that in many instances, it will be one individual's word against that of another. That is why it is doubly important to approach any such situation as professionally as possible.

We should find out all of the circumstances relating to the situation, report only the facts, and keep the focus on the well-being of clients. By doing so, we will be gaining the trust of not only our clients, but other brokers, insurance companies and the industry. ≡