

# PROFESSIONAL ETHICS



## WINING AND DINING

### WHEN DOES BUSINESS SOCIALIZING GO OVER THE TOP?

By the CIP Society

In our latest ethics dilemma, a senior commercial underwriter has been working with a broker on a challenging and premium-sensitive file. The broker is an important intermediary for the insurer, and the potential customer is an important client for the broker. The broker is quite persistent in assuring he secures this customer.

One evening, this underwriter is at a restaurant with a small group of friends. He recognizes this broker at another table and they exchange pleasantries. Not much else is said between them. When the underwriter's group requests the dinner check, they are advised that it had been looked after by the gentleman at the other table before he departed the restaurant.

No one else at the underwriter's table was previously acquainted with this broker, and for them it was quite a nice surprise. What action should this commercial underwriter take? Did the broker act ethically?

Illustration: John Fraser



**N**etworking is an integral part of doing business and the insurance industry, which is very relationship-oriented, is certainly no different. People get together over breakfasts, lunches and dinners. They socialize at cocktail parties, golf tournaments, curling bonspells, charity events and gala dinners — even out-of-town and overseas junkets. The goal is to make contacts, influence associates, establish credibility, garner respect, nurture loyalty, win clients, cinch deals and maybe be liked and have some fun along the way. Some people do it naturally, others because they have no choice thanks to competitive pressures and the expectations of others. So, schmoozing is here to stay: The real question is where do you draw the line?

The ideal approach is to have a company policy outlining what is acceptable and what is beyond bounds. When I worked for newspapers, it was very clear that “graft,” as it was described, was generally inappropriate. Meals and drinks

and promotional items valued at less than \$25 were pretty much the limit. It was torture when I covered the business side of fashion, being offered free clothes all the time that I had to turn down, but the restrictions were plainly articulated and were indisputable. I remember checking if it was okay to accept a bottle of wine that somebody sent over.

So, if the underwriter’s company has a policy regarding entertaining and gifts, his response is simple: Proceed according to the prescribed procedure. If there is no obvious corporate policy, then this could be the time to discuss the issue with management and colleagues and set loose or strict guidelines for the future regarding what is suitable to accept from business partners and what is fitting to offer them.

In the meantime, or if your company leaves the matter up to your judgment, then the course of action should be dictated by your “squirm” factor. Do you feel uneasy about the gift or hospitality

that is being offered? Do you think it will affect your judgment in your mutual dealings and make you feel beholden? Do you think the broker who made the gesture will think you’re indebted in any way? Realistically speaking, you also have to consider whether making a fuss about his picking up the cheque will offend the broker. Some people are defensive when you say no, affronted that you think they’re trying to “buy” you.

In this case, if I were the underwriter, I would feel uncomfortable because my business life has crossed over into my personal life. The broker didn’t pay the tab just for me or me and my associates, but for my friends and me. The situation is complicated by the fact that if I think the right thing to do is reimburse the broker, I will not only have to pay for my dinner but for the repast of five other people I never intended to treat.

Bottom line: I would send a thank you note to the broker saying that I appreci-



## In Over Your Head?

Have you heard the expression “fake it until you make it?” This old adage suggests that people should act like they know what they are doing even if they don’t. The intention is to instill a level of confidence in others about one’s expertise even if it is unwarranted. However, when does such behaviour cross the line into the danger zone?

Consider the plight of a junior underwriter who is eager to impress and advance. Although she is quite out of her depth in a discussion with a commercial broker regarding a highly specialized manufacturer’s potential requirements, she wishes to be both helpful and appear knowledgeable. She gives comfort to the broker by suggesting that this is her specialty and implies that she has considerable experience in the specific area, although neither claim is true. She makes recommendations to the broker that may or may not be appropriate.

Suppose you overhear that conversation and understandably become uncomfortable with its content. What should you do? Should you address the matter with the colleague, or the broker, or your supervisor, etc.?

ated his gesture but diplomatically noting that it was too generous, trying to get across the point not to do this in the future — that it’s just a policy that I personally have with everyone. I would then ask him to lunch or dinner, mentioning specific dates and a designated restaurant to show that I truly mean the invitation and am not just saying it out of social convention — the old “we have to get together” routine. In this way, I would hope to stay on good terms, not making the broker uncomfortable in return, while feeling personally less discomfused — a reasonable trade-off that hopefully better prepares me for the future.

### A broker’s perspective

The conduct of a broker in Canada is usually regulated by the provincial or territorial government under which he or she operates. There is also generally an administrative body that oversees broker licensing and discipline for brokers in each jurisdiction. For example, in Ontario that is RIBO; in British Columbia that is the Insurance Council of B.C. Most of these administrative bodies have a code of conduct by which a licensed broker must abide. Underwriters are not subject to the oversight of these bodies.

The code of conduct of RIBO does not seem to expressly prohibit the action taken by the broker in this case. There are some arguably nebulous references to “integrity,” but if one reads the entire code, one will likely conclude that no disciplinary action would be taken against the broker by RIBO for his purchasing of the dinner for the underwriter and his friends at another table.

If the broker is a CIP or FCIP, he or she is subject to the code of ethics of the Insurance Institute of Canada. The only item in that code that might be applicable is: “In all dealings graduates shall conduct themselves with dignity and shall avoid conduct which would discredit the profession of insurance or the Institute.” It is unlikely that IIC would find in these circumstances that it had solid grounds for disciplining the broker.

While the broker may not have done

anything which would warrant official sanctions from the licensing and disciplinary body in his jurisdiction or from IIC, that does not necessarily mean that everyone in the public or in the insurance industry would commend his actions as having been completely ethical. If the brokerage that employed the broker had a corporate code of ethics, one could determine if this broker had breached that code. However, we do not have that information so we must go on the assumption that none existed.

So one really is left to wonder here what shade of “gray” is this? The underwriter may now very much feel an obligation to the broker. The broker did not consult him and they were not engaged in a business meal at the time where they were legitimately discussing business. Because his friends, who were unknown to the broker, also had their meals paid for, the bill can reasonably be assumed to have been a somewhat significant “gift.”

Would this broker really be comfortable with his actions if they were made public? Would he be content with his client learning about his actions? (This may also speak to the ethical fibre of the client, but let us assume that it is sound.) My hope would be that, in this specific set of circumstances, the broker may wish that he had either refrained from placing the underwriter in this position at all, or at least had consulted him prior to paying for the meals of the entire party. If the underwriter had been consulted and had accepted the offer, then this presents an entirely new set of ethical considerations to consider with respect to the underwriter.

### Another broker responds

There is little point fitting a square peg in a round hole. Trying to convince an underwriter by buying dinner is not necessarily buying your client the right account, the right package or the right insurer.

Accounts that are forced through usually wind up in trouble — unpaid claims, improper coverage, an insurer who never wanted to write this risk or,





worse, doesn't have the expertise to do it. These usually get caught out — by another broker or the next underwriter who will change the terms — and this can be dangerous if the market is a hard one where coverage is hard to get and/or is expensive.

If a broker knows his clients, their needs, their tolerance for risk and how to put a good plan in place with the right insurer, the risk sells itself. You don't need to buy the underwriter (or his pals) dinner. The underwriter and his insurer will want that risk — a self-fulfilling prophecy that can save your expense account dollars.

The broker in the scenario may not have intended to be unethical, but in the end his actions were inappropriate and unnecessary.

### Through the eyes of an underwriter

The underwriter should call the broker the next day and explain that based upon his employer's corporate policy (I am presuming they have one), he cannot accept the meal being paid for in the manner it was.

The broker did not act ethically. He put the underwriter in a compromising position without any regard to the situation at hand. But, brokers and underwriters often have multi-year relationships. Lunch is definitely purchased by both brokers and underwriters during the course of a working relationship. Put another way, lunch is often a great way to discuss/close a mutually beneficial business opportunity. It would not however, influence my underwriting decision on any account. I have to rely on my reputation and by trying to write profitable business.

### A regulatory viewpoint

This scenario has placed the underwriter in a situation both removed from the workplace and in the company of people unrelated to his job. Nonetheless, he has been either consciously or unconsciously compromised and how he responds to the situation can have a lasting effect on how both his friends and the broker perceive him professionally.

The broker may have been kind in his

gesture and his motives may have been innocent but his timing may be rather suspect considering the importance of receiving a quotation favourable to his client. If the underwriter accepts the favour, the broker may feel that has played a part in the placement of the business. The broker then has taken the upper hand in future negotiations.

Conversely, if the quotation is not acceptable, it could leave the broker with a feeling of resentment for having made the gesture at all. From the friends' vantage point, he may be perceived as someone who allows favours to influence him when making professional decisions.



Written guidelines act as an important tool in guiding individuals in their decision making process. An employee's handbook, a formal employment contract or a legislated code of conduct will provide that benchmark needed to establish standards and take away those gray areas that could leave us questioning what would be considered acceptable and ethical behaviour. It may be that the underwriter has signed an employment contract that prohibits acceptance of a gift tied to the placement of an insurance risk. His decision, therefore, is easy. He cannot accept the gift.

However, in the absence of such an agreement, the underwriter has to make the decision, and this will require

courage. If his behaviour is consistent each and every time, he will not be faced with a dilemma. His response will be automatic and he will be known throughout the industry for making professional decisions based on the risk factors alone. His broker force will have a clear understanding of what risks are acceptable and how they will be viewed by him. His employer will have confidence in him to make ethical and sound business decisions and he will be rewarded with respect and trust within the profession.

While in the restaurant, the underwriter may have felt like a hero when his professional affiliation saved his friends money but how he deals with the situation must leave everybody with a clear understanding of where he stands ethically. He must let his friends know that he is unable to accept the kindness. He must be responsible for paying the bill with or without the contribution of his friends. He should report the scenario to his employer. As acceptance of such a favour could be tied to his underwriting performance, the money should be returned to the broker together with a note thanking the broker for his generosity but explaining that it contravenes his employee contract and cannot be accepted.

As for the broker, it may well be that he had good fortune and wanted to share it with the underwriter and his friends. His motives, however, are open to interpretation and, as a result, he has placed the underwriter in a difficult position. If the broker intended to influence the underwriter to provide a quote that would secure the business, the underwriter may feel that the broker lacks faith in the underwriting process and his own ability. If a broker has established a strong relationship with an insurer, it should not be necessary to use methods of enticement to get a favourable quotation.

The broker may have rationalized his actions as being necessary to show his appreciation to the underwriter's commitment to do a good job but the financial gain if he gets the account will be short term if he has had to relax his ethical standards in order to achieve it. ∞