

General Insurance Council of Saskatchewan

All Classes other than Life Newsletter

Summer 2008

ETHICAL CONDUCT IS AN IMPORTANT PART OF BUSINESS

Conducting your business affairs in an ethical manner is not a new concept for insurance professionals - in fact it's a core operational principle.

Ethical conduct for professionals is often enshrined in an industry code of behavior and may also be mandated by the profession's regulatory authority.

It's expected that professionals will always place the interest of the public ahead of their own. This expectation may, however, be more complicated than it appears. What is truly right or wrong may be unclear therefore the line between right and wrong can become blurred. When professionals face this kind of ethical dilemma they must know the right thing to do and then do the right thing.

Over the years, the General Insurance Council has seen situations where otherwise well intentioned professional brokers exercised bad judgment when presented by a particular circumstance. They may have responded by backdating an insurance policy or using private information for a purpose it was not intended. These decisions were unfortunate and showed poor judgment on the part of the broker.

To truly be a professional, you must be fully knowledgeable in your area of expertise; you must hold yourself to a standard of practice that exceeds the minimum requirements set out in Legislation; and you must make the clients interest your first priority.

The bylaws of the General Insurance Council provide a good operational framework for licensees to follow. The bylaws require a high standard of knowledge to become licensed; they compel you to take continuing education courses in order to maintain and enhance your base of knowledge; they require you to hold E&O insurance and a bond to better protect consumers; and they establish an expected standard of conduct.

We must remember, however, that although the Council Bylaws create a strong regulatory framework only the broker can fully determine what being a professional truly means.

Since having a strong ethical foundation is such an important part of professional life the Council is considering whether specific training in ethics should become a regular part of the continuing education program. Council believes a good way to start is raising the awareness of licensees about the importance of a strong ethical foundation. Although this is a good first step Council would also like to encourage all licensees to consider taking a course on this important topic over the coming year.

Council will monitor progress and consult with course attendees and other industry stakeholders about the value and applicability of these courses before determining a future course of action.

SUPERVISION AND MANAGEMENT

Council is preparing a new guideline to assist licensees in determining what is considered reasonable and prudent management and/or supervision in certain situations.

The guidelines will address the following situations:

1. Where an agency is purchased, the agency must maintain a Level 3 licensee with at least two years of licensed experience employed at the agency;
2. Where an agency fails to maintain a Level 3 licensee, the agency licence will be suspended; and;
3. Where a Level 3 licensee is responsible for management and supervision of an agency they must understand the responsibility rests solely with them.

The agency and the Level 3 licensee will be held accountable if it is determined that a reasonable level of supervision was not maintained and this contributed to a problem or complaint.

"Management" includes direction and/or control of the operations of an insurance agency.

"Supervision" means reasonable and prudent oversight regarding an insurance transaction.

The following are areas where licensees commonly request clarification:

a) Is it acceptable for a Level 3 to be in the office two days per week? Three days?

Council will not set specific time frames or criteria that would define management and supervision. In each situation, reasonable and prudent oversight requires close management and supervision.

b) Could the Level 3 be in the office two days a week, but be required to be readily available by cell phone or email at all times during normal business hours?

Access to a supervisor is an important factor and access by faxes and/or email and/or direct telecommunications may offer a reasonable and prudent level of supervision.

c) Or would the Level 3 be required to be available every single day of the week?

As previously noted, specific rules do not exist. What is important is that reasonable and prudent oversight requires that the Level 3 licensee be available to provide Level 1 and Level 2 licensees with assistance in a timely manner if they have any doubt or uncertainty about an insurance transaction. The availability of the Level 3 licensee could be by electronic communications. If this level of supervision is not available, Level 1 and Level 2 licensees should proceed with caution in the transaction and ensure that it is reviewed at the earliest opportunity when the supervising agent is available.

d) Is it acceptable for a Level 3 licensees to be gone on vacation for a couple of weeks?

It is acceptable for the Level 3 licensee to take vacation. However, if a Level 1 or Level 2 were to undertake an insurance transaction for which they were not trained, knowledgeable or sufficiently experienced to understand, the Level 3 licensee and the agency could potentially face disciplinary consequences because of a lack of reasonable and prudent oversight. Should the Level 3 licensee be away on an extended vacation, it is suggested that arrangements be made in advance, for alternate supervision to be available from another broker or insurance company underwriters willing and able to provide such assistance.

An extensive guideline is being developed and will be provided to licensees upon completion.

DESIGNATED LEVEL 3

Agency owners planning on selling their insurance agency are reminded of the necessity of maintaining a designated Level 3 licensee.

An agency must designate one Level 3 licensee who is employed predominately by the agency to be responsible for the overall management and supervision of the agency and its office locations.

Failure to designate a Level 3 licensee who is responsible for the overall management and supervision of the agency or its office locations may result in the suspension of the agency's licence.

Council will consider a Conditional Level 3 licence for licensees wishing to purchase an agency providing the applicant meets the following qualifications:

- (a) The applicant must successfully complete two CAIB courses and the bylaw exam; and
- (b) Have one year of licensed experience in the insurance industry; and
- (c) No other Level 3 licensee is sponsored by the agency.

Please contact our office if you require further clarification.

FINES AND COSTS

The General Insurance Council Bylaws were amended effective May 27, 2008. This will allow Council to assess fines and costs related to investigations.

1. A fine not exceeding \$5,000 for each finding and \$15,000 in the aggregate for all findings; and
2. The costs of the investigation and hearing into the licensee's conduct and related costs, including the expenses of the complaints and investigation committee and the discipline committee and the costs of legal services and witnesses; and
3. If a licensee fails to make payment in accordance with items (1) and (2) above, the licensee's licence will be suspended.

ERRORS & OMISSIONS INSURANCE

Effective July 8, 2008, the General Insurance Council Bylaws regarding Errors & Omissions Insurance has been amended to clearly identify that the E&O policy must be underwritten by an insurance company licensed to do business in Canada.

The bylaw reads as follows:

1. An agency or a direct writer sponsored by an insurer shall maintain and provide annually proof of a valid policy of errors and omissions insurance that meets the following requirements:

- (a) a minimum of \$500,000 coverage and a minimum aggregate limit of \$1,000,000;
- (b) be broad enough to cover all insurance products which the licensee is licensed to sell as defined by The Saskatchewan Insurance Act; and
- (c) be underwritten by an insurance company licensed to do business in Canada.

2. Failure by a licensee to immediately notify Council in the event of a cancellation or non-renewal of their errors and omissions insurance is misconduct.

LICENCE FEE INCREASE

As a result of increased operating costs including a major redevelopment of our licensing system, Council will increase all licence fees in 2009 and 2010.

The following licence fee increase is scheduled for implementation effective January 1, 2009.

All Classes other than Life Agency	\$10 increase in 2009; and a further \$10 increase in 2010
All Classes other than Life Agent/Salesperson	\$10 increase in year 2009; and a further \$10 increase in 2010

The General Insurance Council of Saskatchewan has maintained the same licence fees for the past thirteen years.

INFORMATION REGARDING NEW ISI INSURANCE INITIATIVE

The Life Insurance Council of Saskatchewan ("Council") has provided notice to affected parties of its intent to regulate insurance that is sold "incidental to" the sale of another product.

Incidental selling of insurance ("ISI") includes, but is not limited to, any group insurance plan, certificate, policy or coverage sold by a member of your association that provides insurance to a customer that insures the customer's ability to make payment(s) on a loan. In addition, it includes any form of property insurance that is sold incidental to a loan.

Unlike all other forms of insurance, ISI has not previously been regulated.

A recent Supreme Court of Canada Decision (Canadian Western Bank v. Alberta, 2007 SCC) has clarified some of the uncertainties concerning the regulation of the marketing of ISI products. As a result of this case, insurance regulators in other jurisdictions are reviewing the regulation of ISI products.

The Superintendent of Insurance has overall responsibility for the regulation of insurance in Saskatchewan and has delegated his authority to the Insurance Councils to regulate the sale of insurance by agents or salespersons of agents.

The Superintendent has informed the Insurance Councils that The Saskatchewan Insurance Act applies to the marketing of all insurance products, including ISI.

Council is in the process of determining the level of regulation that will be appropriate to ensure that ISI is marketed in the best interests of the consumer.

AUDITED FINANCIAL STATEMENT

The December 31, 2007 Audited Financial Statement is available on the Council website.

BYLAWS AND SCHEDULES

The bylaws and schedules have been amended with respect to fines and costs, travel course of study and Errors & Omissions Insurance.

A copy of the amended bylaws and schedules can be obtained on the Council website <http://www.skCouncil.sk.ca/genbylaw.htm>.

COUNCIL WEBSITE

The Council website provides a license search function that is available to the industry and the public.

A licensee can use the site to confirm the status of their licence or to determine if their licence has been renewed.

The bylaws, schedules, licence forms and other information are also available.

Visit www.skCouncil.sk.ca.

OTHER BULLETINS

Licensees may access all Council bulletins (Life, General Adjuster, Travel and Hail) from the main page of the Council website.

Past issues of all bulletins are also available on the website.

DISCIPLINARY SECTION - ALL LICENCE CLASSES

September 1, 2007 – May 1, 2008

Any licensee who uses information in this bulletin to discredit another licensee or any other person will be guilty of misconduct.

Donald Benjamin Beveridge, Carolyn Ann Beveridge and Ascent Financial Services Ltd. representing The Equitable Life Insurance Company of Canada were on September 13, 2007 found to have offered inducements to a client that caused a client to make decisions that were not in the client's best interests. As well, they were found to have placed their interests before that of the client and in doing so potentially harmed the standing of licensees. The conduct involved one client who invested in a business owned by the licensees. A joint recommendation on penalty made by the Complaints and Investigation Committee, the client and the licensees was accepted by the Discipline Committee and was made an order of The Discipline Committee and the following conditions were applied to:

"The licence of Donald Beveridge is hereby subject to conditions imposed by the Discipline Committee of the Life Insurance Council pursuant to a penalty order dated October 22, 2007. In the event the licensee breaches a condition imposed by the penalty order, this licence will be immediately suspended and remain suspended until all conditions are met.

The licence of Carolyn Beveridge is hereby subject to conditions imposed by the Discipline Committee of the Life Insurance Council pursuant to a penalty order dated October 22, 2007. In the event the licensee breaches a condition imposed by the penalty order, this licence will be immediately suspended and remain suspended until all conditions are met.

The licence of Ascent Financial Services Ltd. is hereby subject to conditions imposed by the Discipline Committee of the Life Insurance Council pursuant to a penalty order dated October 22, 2007. In the event the licensee breaches a condition imposed by the penalty order, this licence will be immediately suspended and remain suspended until all conditions are met.

In making the order the committee wants to make it clear to all licensees that borrowing money from a client is never an acceptable practice. Further, it should never be assumed that the repaying of the monies, once discovered, will resolve the matter for the licensee.

In the matter before the committee there were exceptional circumstances that caused the committee to accept the penalty agreement that did not carry a suspension or cancellation of licence for the licensees involved. The main factor the committee carefully considered in arriving at its decision was the irreparable damage to the consumer from non reimbursement that would ensue if the agreement was rejected in favour of a licence suspension or licence cancellation."

Gerhard Bosman representing The Canada Life Insurance Company entered into a consensual agreement on August 13, 2007 in which he agreed to the cancellation of his Life and Accident & Sickness Licence.

In the consensual agreement he acknowledged that he had accepted a premium payment in the amount of \$7,000 from a client which he did not give to the insurance company but used for his own expenses. He then misled the client about the investment the client believed they had by providing false investment updates.

Mr. Bosman was charged with theft as result of Canada Life's investigation and on April 9, 2008 was convicted under Sections 332 (1) and 334 (a) of the criminal code. He was sentenced to 9 months imprisonment in the community.

Failure to maintain Errors & Omissions Insurance

Licensees, as a condition of licence are required to maintain Errors & Omissions Insurance and where a licensee has not renewed their errors and omissions insurance, they must immediately notify Council of that fact.

1. **Craig Stephen McCrystal** of Regina SK representing The Equitable Life Insurance Company of Canada received a 30 day suspension.
2. **Cheryl Ann McLean** of Regina SK representing the American Income life Insurance Company received a 30 day suspension.

All of the above licensees waived their rights to a Disciplinary Hearing and entered into a consensual agreement accepting a suspension their licence.

CONTACT SECTION

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Council Members

The names of the Council members may be obtained
from the web site at the following addresses:

www.skcouncil.sk.ca/general_council.htm

EXAM AND STUDY MATERIAL SECTION

Ingrid Stroeder, Examination Coordinator

Exam scheduling 306.525.5900

www.ibas.sk.ca

RETURN TO

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