

CANADIAN UNDERWRITER

OCTOBER 2016

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Bridging the Gap

Workmanship Exclusion BY TIMOTHY McGURRIN

Material Non-Disclosure

BY JENNIFER PEREIRA

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CANADIAN UNDERWRITER

VOL. 83, NO. 10, OCTOBER 2016

CANADA'S INSURANCE AND RISK MAGAZINE. PUBLISHED BY NEWCOM BUSINESS MEDIA INC.

www.canadianunderwriter.ca

COVER STORY

Bridging the Gap

Some brokers warn that small businesses can have complex exposures that managers may not consider, while courts have held that both brokers and company agents have a legal duty to give clients not only information, but also counsel and advice. BY GREG MECKBACH

FEATURES



Material Disclosure

In its recent ruling in favour of Galon Insurance Brokers and SGI, a court provided guidance on when non-disclosure is material to the risk being insured. BY JENNIFER PEREIRA



Proper Appraisal

When insuring a home containing expensive contents, retaining a properly qualified appraiser benefits the insurance providers. BY JOHN GROW



Earthquake Coverage

Quebec faces the risk of a devastating earthquake. and brokers should let homeowners know whether they are adequately covered. BY TED HARMAN



Succession Plans

BY BRENDA ROSE

When seeking prospective managers as part of succession plans, brokerages need to consider attitude and the ability to motivate the producers.

16 Workmanship Exclusion

In its ruling in Ledcor v. Northbridge, the Supreme Court of Canada confirmed that the faulty workmanship exclusion under a builder's risk policy is narrow. BY TIMOTHY MCGURRIN

22 Managing Disasters

Local mayor Naheed Nenshi was among the speakers at the 2016 RIMS Canada Conference in Calgary. BY ANGELA STELMAKOWICH

54 Dale Rempel Award

Tara Chammartin, president of the Insurance Brokers Association of Manitoba and operations manager for La Salle Insurance and Travel Services Ltd., has been recognized with the Dale Rempel Award of Excellence. BY ANGELA STELMAKOWICH

60 Educating Brokers

In a recent survey of Canadian brokers by the Insurance Institute of Canada, respondents suggested they want a better understanding of new products and coverage options in areas such as cyber risk, overland flooding, driverless cars and the sharing economy. BY PETER HOHMAN

64 Executive Forum

Turning insurance outside-in was the theme of the recent Executive Forum, Speakers from Kanetix, Deloitte and SAP explained how advances in data and technologies will affect the industry. BY ANGELA STELMAKOWICH & GREG MECKBACH



Curtain Call.

Celebrating eight years of recognizing our national leaders.

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Awards to celebrate excellence and to recognize
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energizes and inspires the people around them.
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We thank all the nominees, as well as those who took the time to nominate them for this prestigious national award.



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Laura Van Vliet | CIP, CRM ALIGNED Insurance Inc. Waterloo, ON Emerging Leader

Please join us to celebrate the achievements of these 2016 leaders as they are inducted into the CIP Society National Leadership Circle at appropriate local Institute Convocations.

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For more information about the nomination process, to read about our CIP Society National Leadership Circle recipients, or to register to attend the awards presentation at your local Institute Convocation, please visit www.insuranceinstitute.ca/cipsociety



PROFILE



14 Towards Integration

Traci Boland, the president-elect of the Insurance Brokers Association of Ontario, suggests brokers remain concerned about a lack of integration between broker management systems and insurers' software.

SPECIAL FOCUS

8 Editorial

10 Marketplace

68 Moves & Views

70 Gallery

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Published by

NEWCOM

NEWCOM BUSINESS MEDIA INC

451 Attwell Dr., Toronto, ON M9W 5C4 (416) 614-2200 • (416) 614-8861 (fax)

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Canadian Underwriter is published thirteen times yearly (monthly + the Annual Statistical Issue) by NEWCOM BUSINESS MEDIA INC.

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Subscription Rates: 2016 Canada

1Year \$51.95 plus applicable taxes 2Years \$75.95 plus applicable taxes

Single Copies \$10 plus applicable taxes

Elsewhere

1Year \$71.95

Annual Statistical Issue

(included with above subscription) or separately \$39 plus applicable taxes

Subscription Inquiries/Customer Service Mary Garufi (416) 614-5831 mary@newcom.ca GST Registration number 890939689RT0001 Second Class Mail Registration Number: 08840 Publications Mail Agreement #40063170

Return undeliverable Canadian addresses to: Circulation Dept.

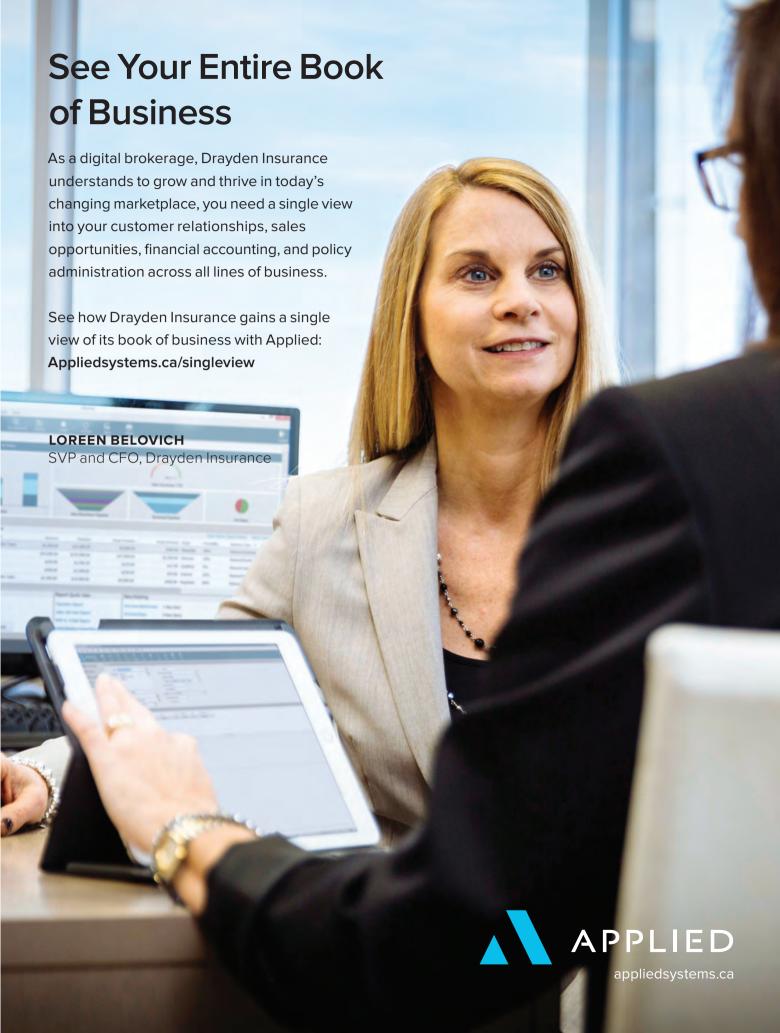
Canadian Underwriter 80 Valleybrook Drive, Toronto, Ontario M3B 2S9

We acknowledge the financial support of the Government of Canada through the Canada Periodical Fund of the Department of Canadian Heritage

Canadä







Defining the Threat



One reason brokers add value is because the average consumer does not understand insurance terms and conditions very well.

Greg Meckbach Associate Editor Canadian Underwriter gmeckbach @ canadianunderwriter.ca Insurance brokers are facing considerable challenges in 2016, with different overland flood wordings, competition from direct writers such as Sonnet and the changes to Ontario auto that took effect this past June.

But to properly address threats and to take advantage of opportunities, a broker first needs to determine both the true threats and true opportunities. This is not necessarily a straight-forward consideration.

Consider the notion, touted by some, that a good place to shop for insurance is the same place that sells paperback novels online?

How many licensed agents would an online retailer hire? How accessible would those agents be to consumers with detailed questions about insurance?

Tara Chammartin president of the Insurance Brokers Association of Manitoba and 2016 recipient of the Dale Rempel Award says she is "not scared" of online competition. She says the service brokers offer "will outshine" an 800 number. [For more details please see Passion Play, page 54].

There was once a notion that a good channel through which to purchase insurance is an Internet search engine.

But Google Compare which did not provide advice and shut down this past March— did not last much longer than Joanie Loves Chachi.

In a recent survey by

Insurance Institute of Canada, some brokers identified the need for greater education in some product areas, especially cyber. [For more details please see Learning Curve, page 601.

Traci Boland, presidentelect of the Insurance Brokers Association of Ontario, notes that different insurers have different residential water policies. [For more details, please see Broker Management, p. 14].

Consumers could, in theory, do their own research on the various overland flood coverages and try to decide what is best for them. But in reality, homeowners need advice.

While a lack of detailed knowledge of insurance products could be characterized as a challenge for brokers. it is inconceivable that this could be considered a threat rather than an opportunity for the broker channel.

One reason brokers add value is because the average consumer does not understand insurance terms and conditions very well.

One challenge for brokers is errors and omissions liability — the threat of being sued for negligence by a policyholder whose claim was denied because the plaintiff's policy did not cover a certain risk. This risk is a challenge, but one that should be seen as an opportunity rather than a threat.

Without coverage gaps, there would probably be fewer lawsuits against brokers arising from denied claims. but there would also be fewer opportunities to upsell.

Some might consider the banks to be a threat. However, of the Big 5, only one (Toronto Dominion) actually writes home and auto insurance, now that Aviva has acquired RBC General Insurance. The Bank of Montreal sells neither home nor auto insurance. Meanwhile, the Bank of Nova Scotia and the Canadian Imperial Bank of Commerce sell home and auto but those policies are written by subsidiaries of Desjardins.

With the impending fiveyear review of the Bank Act. there could be political pressure from financial institutions to ease restrictions on banks selling non-authorized types of insurance. Is this really a threat?

Consider how knowledgeable banks are when it comes to authorized insurance. Many borrowers have been pitched creditor's disability insurance by a bank employee. But how many banks actually employ licensed agents to sell insurance to creditors?

Perhaps one overlooked challenge for brokers is complacency on the part of consumers and corporate decision makers.

Convincing some people that something bad could happen to them is easier said then done. After all, once a person suffers a catastrophic loss, it really is too late to sell a policy.



WATER, WATER, EVERYWHERE

Insurers today are operating in an extremely dynamic marketplace, with changes in demographics and consumption, environment, technology, and social values. These shifts are game-changing, and making it essential for insurers to become more responsive and adaptive to the ways in which customers today research, buy and build trust. The winners are those who can genuinely build a consumer-centric business model.

At RSA, we have been tirelessly building and improving our customer-centric model over the past several years. We have successfully moved the needle in this endeavour by investing in our broker channel - through education, financing support, and above all, listening to our broker partners and using your feedback and insights to create tailored propositions for the end customer. Evolving how we do business has helped drive our partnership with the broker channel forward and deliver solutions that meet brokers' and customers' evolving needs. In fact, over the past 18 months, we have made nearly 100 changes, large and small; to the way we approach Personal Insurance in order to address broker pain points.

The growing uncertainty of water

With new, complex water coverage emerging in our industry, and the increasing incidence of extreme weather events such as floods in Canada, it was clear that customers needed simplified, easy-to-understand coverage, as well as choice.

We conducted a survey among Canadian consumers, which revealed that although 28 per cent of respondents had experienced water damage in their homes, 29 per cent of consumers weren't sure what their policies covered. We recognized that with new flood coverage products on the market, in addition to government disaster assistance programs, it was an ongoing challenge for insurers, brokers and customers to educate effectively on customer coverage options. In addition, our brokers have always been open with us about their desire to be able to provide options for their customers.

Response to demand for clarity

One of the ways in which we successfully turned this customer and broker feedback into action was the launch of Waterproof Coverage™, a new overland flood coverage



in November 2015 that combined coverage for sewer back-up and freshwater flooding. It has since become widely available to customers across Canada.

We know that one of our broker's priorities is to get their clients the best coverage available, while keeping their customers premiums low, which is why we now offer two à la carte options:

• Limited Sewer Backup Endorsement This coverage protects property from damage resulting from sewer, sump pump or septic back-up

· Waterproof Coverage Endorsement

This provides all the coverage of the Limited Sewer Backup Endorsement, plus the enhanced protection against damage caused by freshwater flooding as well as damage caused by eaves, downspouts and drains

Waterproof Coverage™ is convenient, clear and easy to understand coverage for the customer – something we know brokers wanted: making your life easier by offering your Personal Insurance clients the option to choose singular coverage that's clear and simple to understand. It's a single endorsement that is accessible for most policyholders. This gives customers the choice to enhance their level of protection from basic sewer back-up coverage to include flood coverage, or simply keep

sewer back-up according to their needs. We solicited feedback from brokers and considered the ease of introduction and workflows when designing this offering. We also asked Canadian consumers what they needed in terms of coverage. At the end of the day, we wanted to create a solution that catered to homeowners who need clear advice to help them assess property needs and parse out the differences between an enhanced product and conventional sewer back-up coverage.

Overwhelming response

The response to the product launch across the board has been extremely positive. Currently, brokers representing nearly 60% of our property risks in AB, BC, Manitoba, Ontario and Atlantic have signed up for Waterproof coverage on renewal. Of Brokers supporting the coverage on renewal, their new business uptake rate is over 65%.

Our Waterproof Coverage™ webpage (rsabroker.ca/water) is the most visited page to date. Not only is the page popular in terms of site visits, but visitors are spending a significantly larger amount of time there compared to other pages, demonstrating the renewed focus on providing engaging and educational content that helps fill a gap in the market from an end customer perspective.

Canadian Market

HUB BUYS ONTARIO BROKERAGE, ALBERTA MGA

Hub International Limited announced September 8 it has acquired Barrie, Ontariobased Sarjeant Insurance Brokers Limited and Edmonton-based managing general agency New Dimensions Underwriters Ltd.

The terms of the acquisitions were not disclosed.

Among other things, Sarjeant places auto, residential and watercraft insurance. Randall Maxim, Sarjeant's president, and Patricia Hanmer, Sarjeant's vice president, will join Hub Ontario.

Russ Davis, owner and president of New Dimensions, will join Hub Financial.

SONNET TO WRITE AUTO DIRECTLY: ECONOMICAL

Economical Insurance reported in September it is selling auto insurance online directly through Sonnet, which went live this past May with personal property insurance.

In addition to a quote and bind process, customers can get multiple quotes and make changes to a policy online.

AVIVA CANADA ROLLS OUT EQUESTRIAN COVERAGE

Aviva Canada is launching liability and medical coverage for equestrians in Manitoba and Saskatchewan through Henry Equestrian Insurance Brokers Ltd. of Aurora, Ontario.

Coverages include surgical insurance for horses. Options include "full mortality, medical and disability coverage, trailer and equipment protection, to 24/7 claims expert service," states Dennis Graham, president and chief executive officer of Henry.

AIG TO SELL LLOYD'S UNIT TO CPP INVESTMENT BOARD

The Canada Pension Plan Investment Board has announced it has agreed to acquire 100% of Ascot Underwriting, the capital provider for Lloyd's Syndicate 1414, from American International Group Inc. (AIG).

The deal is subject to regulatory approval.

AIG reported it will receive about US\$240 million in net cash proceeds from the deal.

Ascot Underwriting's coverages include, among others, property, energy, cargo, terrorism and political risk and marine.

Regulation

ONTARIO TORIES CALL FOR CAP ON CONTINGENCY FEES

Former Ontario Progressive Conservative Leader Tim Hudak tabled in September a private member's bill that proposes limits on lawyers' contingency fees, referral fees and personal injury lawsuits over medical assessment costs.

Hudak is currently the PC finance critic.

If passed into law, Bill 12 would change the *Solicitors*

Act such that an agreement with a lawyer or paralegal, on a fee arrangement, "must disclose how the fee is calculated," and that disclosure would have to be made "in a clear, comprehensible and prominent manner."

Bill 12 would also cap contingency fees at 33%.

With Bill 12, Hudak also proposes changes to the *Law Society Act* to "prohibit lawyers in auto insurance cases from receiving referral fees, except upon the successful completion of a claim."

Claims

PRAIRIE STORMS LOSSES PEGGED AT \$66 MILLION

Insured damage from severe storms July 18 to 20 that swept through the southern Prairies was estimated at \$66 million, Insurance Bureau of Canada reports.

IBC uses figures from Catastrophe Indices and Quantification Inc. (CatIQ).

"This system caused significant hail damage in Medicine Hat, Alberta and caused tornadoes in Saskatchewan and Manitoba," notes an IBC statement. Most damage was reported in Alberta.

B.C. MOTORIST INJURED ON ATV COVERED: COURT

A British Columbia court recently ruled against Insurance Corporation of B.C. (ICBC) when it found that a man who suffered a spinal injury while riding his all-terrain vehicle, in order

to unload it from his pick-up truck, is entitled to accident benefits.

Provincial law stipulates that ICBC is not liable to pay benefits if the injured person is "an occupant" of a vehicle — such as an ATV — which cannot be licensed under the *Motor Vehicle Act*.

In 2005, Sheldon Prosofsky had loaded his Polaris ATV into the box of his pick-up truck. When Prosofsky arrived at his destination, he set up a ramp on his pick-up truck, mounted the seat of the ATV, placed it into neutral and using the brake, began to ease the ATV down the ramp.

But an under-inflated tire got caught in the ramp, causing the front-end of the ATV to rise up. Prosofsky fell to the ground.

A judge with the Supreme Court of British Columbia ruled in August Prosofksy was not "operating" his ATV and was not an "occupant." Instead, Prosofksy "was injured as a result of using his pick-up truck to transport an item," Justice Hope Hyslop ruled.

OTTAWA ASKED TO "STRENGTHEN" PACICC

Property and Casualty
Insurance Compensation
Corporation (PACCIC) is urging federal finance minister
Bill Morneau to "carefully
look" at recommendations
in a C.D. Howe Institute
report released August 3.

In the report, Fault Lines: Earthquakes, Insurance, and Systemic Financial Risk,

MARKETPLACE

author Nicholas Le Pan suggests a catastrophe such as an earthquake "would exceed the existing capacity of Canada's insurance industry and would exceed PACICC's ability to meet policyholder claims" if losses were to exceed \$30 billion.

Among Le Pan's recommendations are to "strengthen PACCIC so it can intervene before insurance companies in financial difficulty become insolvent." he wrote.

Le Pan added that unless PACICC "has a federal guarantee similar to that" of Crown corporation Canada Deposit Insurance Corporation (CDIC), PACICC "will be limited in the financial assistance" it could give. CDIC protects deposits of up to \$100,000 in case of failure of a financial institution.

Unlike CDIC, "PACICC has only intervened after a company has failed," notes Le Pan, former federal superintendent of financial institutions.

PACICC "welcomes the findings," says Paul Kovacs, chief executive officer of PACICC. "We urge the Minister of Finance to look carefully at his policy recommendations."

Technology

HOME DEPOT DATA BREACH SETTLEMENT APPROVED

An Ontario court has approved a settlement — in a classaction lawsuit against Home Depot of Canada Inc. and its corporate parent — arising

from a data breach in 2014.

The Ontario Superior Court of Justice valued the settlement — which creates a non-reversionary fund of \$250,000 "for the documented claims of Canadians whose payment card information and/or email address was compromised as a result of the data breach during the data breach period" at about \$400,000 to the settlement class members.

Home Depot denies any wrongdoing.

Between April and June of 2014, Home Depot's "payment card system was hacked by criminal intruders using custom-built malware to clandestinely breach Home Depot's computer system," Justice Paul Perrell wrote, adding that there is "no evidence that a Class Member absorbed a fraudulent charge."

The only consumers affected "were those that used their payment card by swiping its magnetic chip through the card reader at self-check-out terminals... that had been infected by the malware," Justice Perrell noted, adding there is "little risk of fraudulent charges because of sophisticated safeguards developed by credit card companies."

Risk

TORONTO PORT FLOOD PROJECT GETS FUNDING

The federal and Ontario governments recently pledged \$32.5 million and \$16.25 million, respectively, for a project to create a landmass around the current Essroc Quay in Toronto that will stabilize the area shoreline under flood conditions.

The Port Lands of Toronto "filling and naturalization" flood protection project is expected to start October 1.

The announcement is part of the Clean Water and Wastewater Fund.

CHAMPLAIN-RICHELIEU FLOOD RISK UNDER STUDY

The governments of Canada and the United States have asked the International Joint Commission (IJC) to "explore more fully the causes. impacts, risks and potential solutions to flooding in the Lake Champlain-Richelieu River basin" in Quebec, New York and Vermont.

The IJC is mandated to prevent and resolve border disputes, primarily those concerning water quantity and quality.

The work will involve the evaluation of the causes and impacts of past floods, particularly a 2011 event; assessing the possibilities offered by floodplain best management practices; evaluating possible adaptation strategies to the expected future variability in the water supplies; and making recommendations for implementing a flood inundation mapping system for the area, among others.

The governments are requesting that the IJC complete these activities within five years and prepare an initial workplan within six months.

The Richelieu River flood in spring 2011 was "arguably the worst overland inundation in southern Quebec since Confederation and Quebec's worst natural disaster since the Saguenay flood in 1996," Global Affairs Canada reported.

"In at least 20 municipalities, waters inundated streets up to a kilometre from the riverbanks," it adds.

Reinsurance

GLOBAL REINSURANCE LOSS RATIO UP 7.1 POINTS

The loss ratio in the global reinsurance market, for the first half of 2016, was 63.3%, up 7.1 points from 56.2% in 2015 and two points higher than the fiveyear average of 61.3%, A.M. Best Company Inc. notes in its latest annual global reinsurance segment review.

The report includes a list of Top 50 Global Reinsurance Groups, ranked by unaffiliated gross written premiums in the previous year, in both life and non-life.

This year and last year, Munich Re, Swiss Re and Hannover Re ranked first, second and third, respectively. SCOR ranked fourth this year, up from fifth in 2015. Berkshire Hathaway dropped from fourth to sixth place.

A.M. Best counts the Lloyd's market as one reinsurer. The Llovd's market rose from sixth place in 2015 to fifth place this year.



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A great many insurers underwrite the security and peace of mind of literally millions of Canadians. And they do so with great professionalism, with unimpeachable integrity, and truly Canadian compassion.

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Broker Management

Greg Meckbach Associate Editor

Traci Boland, incoming president of the Insurance Brokers Association of Ontario, hopes that company and broker management systems will soon work together.

Educating insurance professionals about self-driving cars, eliminating the double entry of data into computer systems and asking Ontario brokers what they want from their provincial association are among Traci Boland's goals as incoming president of the Insurance Brokers Association of Ontario (IBAO).

IBAO officials "have just started talking" about an educational program around self-driving cars, reports Boland, currently the association's first vice president.

"The IBAO will be co-branding with a different educational platform to bring this to the insurance industry," she says.

Despite the progress in recent years on broker management systems (BMSs), some brokers still find they need to enter the same data twice.

"The ease of doing business, for our brokers' front-line staff, is not even a statement in their vocabulary any more," says Boland, who by day works in London, Ontario as a partner at Ontario West Insurance Brokers.

"These front-line men and women, who actually have to service the consumers, are spending more time with double-data entry — going into each company's portal, ensuring that their BMSs are up to date so that nothing is missed for the consumer."

With some carriers adopting software from Guidewire Software Inc., brokers are "now in a better position to be able to communicate with the platforms that are out there with the companies," reports Boland.

"But to complete it, we need integration. Brokers need to be able to respond to our clients' needs at the same time and speed that our competitors, the direct writers and the banks, can. Right now we are not able to do that. The technology is out there, but it's so slow to come, and partly it is because of the BMSs and the

companies not being able to work together."

Another technology issue for Ontario brokers is the availability of systems that enable online quoting and binding, she suggests.

"We need to be able to adapt faster, build the products and build the technology so that our brokers can help the consumers."

So far, 2016 has been "very difficult" for some insurance brokers, with new residential water policies and the changes to auto that took effect for accidents occurring on or after June 1, she suggests.

Overland flood coverage was generally unavailable to Canadian residential property owners until 2015. Early that year, The Co-operators Group Ltd. launched its Comprehensive Water Endorsement in Alberta and Aviva Canada Inc. launched its overland water endorsement in Alberta and Ontario.

The Co-operators has since rolled out Comprehensive Water in Ontario as well.

Among the carriers that are also now providing overland flood coverage are RSA Canada, Economical Insurance, Gore Mutual Insurance Company, Pembridge Insurance Company and Optimum General.

Both RSA Canada and

Aviva Canada offer flood coverage as an endorsement to their sewer back-up polices.

Wording is far from standard. With The Co-operators, for example, its endorsement covers a river body overflowing its banks, water that overwhelms the natural or built infrastructure's ability to carry it away and sewer back-up.

For its part, RSA Canada gives homeowners the option

"There is not one (residential overland flood) product there that is the same for everybody."

of buying sewer back-up without the Waterproof coverage, but its new sewer back-up wording is more restrictive.

"There is not one product there that is the same for everybody," Boland says.

Other major recent changes affecting Ontario brokers include auto coverage.

"We were answering to clients as to why they hadn't seen a 15% reduction before auto reform," she says of brokers at Ontario West Insurance Brokers, alluding to the *Automobile Insurance Rate Stabilization Act*, which took effect in August 2013.

PROFILE

That law mandated an "industry-wide target reduction" by 15%, of the "average of the authorized rates that may be charged by insurers" for private passenger auto, with a two-year target.

In their rate filings, insurers had to "propose rates and a risk classification system that contribute adequately to the achievement of" the 15% target.

"We still were not seeing the reduction that was promised by the government for our clients, and so [clients] are calling on that," Boland says.

Over the past several years, the Ontario government introduced a number of measures that are aimed at addressing auto claims costs.

For accidents occurring on or after June 1, 2016, the mandatory coverage for catastrophic impairment no longer has two separate \$1 million limits. The limit is now a combined total of \$1 million, for attendant care, medical and rehabilitation.

For non-catastrophic injuries, the mandatory coverage that consumers must purchase has been reduced to a \$65,000 limit for medical, rehab and attendant care expenses. Before, the limits were \$50,000 for medical and rehab, and \$36,000 for attendant care.

"Auto reform came up and



oto: Peter Ty

we had to do the training on that, we had to understand all the codes and all the process for that," Boland says of her brokerage, where she has worked for 15 years.

Raised in London, Boland was a synchronized figure skating coach in the United States. She returned to Canada in September 2001.

"I had to make the decision as to whether I was going to go for another visa again, working with sports, or if after September 11 (2001) if it was time to stay home," she recounts. "I made the decision that it was actually time to stay back in London and I started working again in my dad's insurance

brokerage," she says.

Boland obtained her licence in 2002. The following year, she attended an IBAO Young Brokers Council (YBC) conference. She was a YBC territory leader for three years and subsequently served as YBC vice president, president and chair.

Boland then served on the IBAO board for three years, before taking on the position of second vice president and now first vice president.

"We have a survey that's going out to all our members and stakeholders about what people are looking at from the IBAO," she reports. "We really want to be listening right now to what brokers

need from us and ensure that we are delivering on the actions that they have asked us to do," Boland emphasizes.

IBAO has had several leadership changes. Colin Simpson — who previously led Kingsway Financial, Intrinsync Insurance Solutions and Independent Broker Resources Inc. — is now IBAO's chief executive officer.

"The IBAO is now in a position of strength under the leadership of Colin Simpson," contends Boland. "I think that we are going to be able to move forward in a positive way. We are heading into 2017 with our longrange plan," she adds.

Builder's RISK



Timothy McGurrin Partner, Miller Thomson

In light of a recent Supreme Court of Canada ruling on a builder's risk policy, insurers can anticipate that court decisions involving disputes over standard form insurance contracts are more likely to be appealed.

On September 16, the Supreme Court of Canada rendered its judgment in Ledcor Construction Ltd. v. Northbridge Indemnity Insurance Co. The decision provides new guidance on principles of contractual interpretation and eliminates the doctrine that appeal courts should show deference to trial courts when dealing with the interpretation of standard form contracts.

Examining a faulty workmanship exclusion common to builder's risk insurance policies in particular, it was held that such clauses exclude only the cost of re-doing faulty work and not necessarily physical or resulting damage caused by such work.

Bristol Cleaning was hired to clean windows prior to completion of construction of the EPCOR tower office building in Edmonton. At the early stages of the project, an "all risks" insurance policy had been obtained to run until the completion of construction, covering the owner, contractors, sub-contractors and others involved. The windows were scratched during cleaning, resulting in a claim against the policy for the cost of replacing the windows, which was estimated at \$2.5 million. The insurers (one of whom was Northbridge) denied the claim.

QUESTIONS OF FACT OR LAW

In its ruling in Sattva Capital Corp. v. Creston Molly Corp.

— which was not a disputed insurance claim, but did involve commercial contract interpretation

— the Supreme Court of Canada advised that the historical approach of determining the legal rights and obligations of parties to a written contract as a question law should be abandoned.

This approach was described as having originated in England at a time when there were both frequent civil jury trials and widespread illiteracy. Out of necessity, the interpretation of a contract was deemed a question of law, rather than a question of fact for a jury to decide. As often only the judge could read, the interpretation of a document had to be left to that judge alone.

More recently, when hearing breach of contract lawsuits, there has been a tendency for courts to consider not only the technical rules of contract construction, but to also consider the actual intent and understanding of the parties to those contracts.

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In Sattva, recognizing the importance of the circumstances surrounding a contract and the objective of identifying the actual intent of the parties, Justice Marshall Rothstein wrote the following: "Contractual interpretation involves issues of mixed fact and law as it is an exercise in which the principles of contractual interpretation are applied to the words of the written contract, considered in light of the factual matrix."

For the process of contractual interpretation, this guidance was an important development. Additionally, while decisions of law are subject to appellate review for correctness, an appeal court is expected to defer to a decision by a lower court on a question of mixed fact and law, unless there is a palpable and overriding error on the part of the lower court.

Therefore, for most appeals involving the interpretation of a contract, Suttwo changed — or at least solidified — the standard of review as overriding and

palpable error rather than correctness. It became harder to successfully challenge trial decisions in such contract cases.

In Sattra, Justice Rothstein commented that it may be possible to isolate an extricable question of law from within a question of mixed fact and law but directed caution in doing so and warned: "The close relationship between the selection and application of principles of contractual interpretation and the construction ultimately given to the instrument means that the circumstances in which a question of law can be extricated from the interpretation process will be rare."

BROAD COVERAGE

In Ledcor, the high court acknowledged that appellate courts have disagreed on whether or not the instruction from Sattva meant overriding and palpable error was the appropriate standard of review for "standard form contracts." However,

writing for the majority, Justice Richard Wagner determined the issue by holding that where an appeal involves the interpretation of a standard form contract, the interpretation is of precedential value, and there is no meaningful factual matrix that is specific to the parties to assist the interpretation process, then the question is best characterized as a question of law and subject to review for correctness.

Respectfully then, it appears that in so far as standard form contracts are exceedingly common both in insurance and other industries, instances of contractual interpretation being subject to a review under the standard of correctness, will not be so rare as one might have believed reading Suttwa. This lack of deference to the trial decisions in such cases lends itself to an increased frequency of appeals.

The policy of insurance at issue in Ledcor provided coverage for all risks of di-



rect physical loss or damage to the property undergoing construction, subject to certain exclusions. The particular, but typical, exclusion and exception clause at issue included the following: "This policy section does not insure: ... The cost of making good faulty workmanship, construction materials or design unless physical damage not otherwise excluded by this policy results, in which event this policy shall insure such resulting damage."

Interestingly, the Alberta Court of Queen's Bench trial judge concluded that competing plausible interpretations of the clause made the policy ambiguous as to whether only the cost of the cleaning work or also the cost of the window replacement fell within the coverage provided by the policy.

The issue was resolved at trial by applying the rule of contra proferentem, favouring the insureds. In contrast, Alberta's Court of Appeal found the damage to the windows to be excluded from coverage, ruling that the exclusion clause was not

More recently, when hearing breach of contract lawsuits, there has been a tendency for courts to consider not only the technical rules of contract construction, but to also consider the actual intent and understanding of the parties to those contracts.

ambiguous. However, its creative new test — devised to draw a dividing line between the cost of making good faulty workmanship and the physical damage that was covered as resulting damage — was entirely rejected as unnecessary by the Supreme Court of Canada.

Carrying forth the governing prin-

ciples of interpretation applicable to insurance policies — summarized in 2010 in the Supreme Court of Canada decision in Progressive Homes Ltd. v. Lombard General Insurance Co. of Canada — the analysis in Ledcor begins with the general proposition that where contractual language is unambiguous, effect should be given to the clear language, reading the contract as a whole. Where there is ambiguity, however, the general rules of contractual interpretation are brought to bear — finding an interpretation consistent with the reasonable expectations of the parties within the commercial atmosphere and with consistency to interpretations of similar policies.

Only if ambiguity still remains is the doctrine of contra proferentum to be used to construe the policy against the drafter. Finally, the insurance sector-specific rule must also be considered — coverage clauses are to be interpreted broadly and exclusion clauses narrowly.

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YOUR PROPERTY IS OUR PRIORITY Interpreting the exclusion clause to preclude from coverage only the cost of redoing faulty work aligns with commercial reality and sensible results, as well as the parties' reasonable expectations, while not transforming the insurance policy into a construction warranty.

To further the review, the court confirmed that an insured has the onus of first establishing a claim is within coverage before the onus then shifts to the insurer to establish that an exclusion applies, and then if necessary, back to an insured to prove any exception to the exclusion.

In Ledcor, the majority of the Supreme Court of Canada rejected the Alberta Court of Appeal's finding that the exclusion clause must exclude some physical loss from coverage or it would be redundant. The majority reminded that in Progressive, the Supreme Court of Canada stressed that "perfect mutual exclusivity [between exclusions and the initial grant of coverage] in an insurance contract is not required."

Moving on, the majority opined although the language of the exclusion clause slightly favoured the insured, it was, nonethe-

less, ambiguous with different possible interpretations.

Turning to the general principles of contract interpretation, the majority noted that the overall purpose of such builder's risk policies as providing broad coverage to construction projects "which are singularly susceptible to accidents and errors... in exchange for relatively high premiums... provides certainty, stability, and peace of mind." The analysis confirms that all-risk coverage under a builder's risk policy is intended to be broad, and the faulty workmanship exclusion narrow.

Interpreting the exclusion clause to preclude from coverage only the cost of redoing faulty work aligns with commercial reality and sensible results, as well as the parties' reasonable expectations, while not transforming the insurance policy into a construction warranty.

Interestingly, the majority also rejected the insurer's argument (favoured by Alberta's Court of Appeal) that accepting an interpretation granting coverage would promote commercially unreasonable behaviour by influencing how work is divided among various contractors on a project in an effort to maximize coverage — in essence providing an incentive to divide up the work as finely as possible. The majority held that it would be unreasonable to expect an owner or general contractor to consider this as a particularly relevant factor in deciding how to allocate work.

It deserves note that the Supreme Court of Canada was not unanimous in these views. While agreeing with the majority's disposition of the case, Justice Thomas Cromwell, in separate reasons, expressed doubt that the interpretation of standard form contract as so removed from the consideration of factual context to warrant an exception from the general rule in Sattva. Justice Cromwell found the trial judge did not err in finding the clause ambiguous.

The result for insurers is the potential for increased liability under builder's risk policies, at least with respect to policies written in the present common form, and a further strong precedent for the rule that courts will maximize coverage and minimize exclusions in cases of uncertainty. Moreover, the modest deterrence to appeals promised by the higher standard of review in Suttva no longer applies to the interpretation of a standard form contracts.

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42nd Annual RIMS Canada Conference Calgary

Bracing for Change

Angela Stelmakowich Editor Attendees of the 42nd Annual RIMS Canada Conference had the opportunity to learn about the most pressing (and persistent) risk management issues facing professionals, their partners and the industry itself. Common to all, though, is a need to get educated and be flexible for what may unfold in future.

Resilience, the theme of the 2016 RIMS Canada Conference, could likely find no more welcome and knowing host than Calgary. As the home of the majority of Canada's Top 10 insured losses for natural disasters ever, Alberta served as a fitting venue to discuss all manner of risk management: from resiliency to mergers and acquisitions, business interruption and flood coverage.

RESILIENCY SHOULD BE EVERYONE'S GOAL

Every organization, regardless of size or sector, can be hit by some sort of disaster so each needs to ensure steps are taken to become resilient, Darius Delon, chair of the RIMS Canada Council, suggested during the opening ceremonies of the 2016 RIMS Canada Conference.

Emphasizing that no one is exempt, Delon told attendees that when risk managers develop their teams, these should include incident response, emergency response planning and business continuity planning expertise.

Practising both incident response and business continuity on a regular basis "is critical to the continued success of your resilience," he argued. "Being prepared for these eventualities that we don't want to have happen is a hallmark of resilience," he added.

Calgary Mayor Naheed Nenshi told attendees "it's incredibly important" for governments and quasi-governmental agencies "to be able to think about the appropriate way to manage risk, the appropriate way for us to think about what risks should we be taking, how should we be taking it."

Asked Nenshi, "Is the risk of loss so infinitesimally small that it's preventing us from making serious investments or doing serious things to improve the quality of life for people in our community?"

The job of risk professionals is "to not only control or mitigate risk, but to embrace it, and to enable risk-taking as a natural part of doing business and align them with the organization's strategy," Julie Pemberton, president of Risk and



Insurance Management Society (RIMS) Inc., told attendees.

"Risk mitigation is not cheap, it's not easy, but it's critical. It's critical in a world of climate change, it's critical in a world where we think about emergencies and risks in new ways and it takes hard work," Nenshi emphasized.

M&A COULD SUPPORT DEMAND FOR MORE R&W COVER

The future looks good for mergers and acquisitions (M&A) activity, which will likely also fuel demand for representations and warranties (R&W) insurance, André Legrand suggested at the 2016 RIMS Canada Conference.

There are some current factors — the United Kingdom Brexit vote and the United States presidential election were specifically noted — that have created instability not only in the U.K., but very much in Canada, Legrand, a senior partner with Norton Rose Fulbright's Mon-

treal office, said during the session, The Mergers and Acquisitions Insurance Explosion.

"These two things are obviously temporary, but do have an effect on M&A activity and it is expected once these two factors have been dealt with, the future looks good in terms of M&A activity," he told attendees.

R&W insurance provides buyers and sellers protection from financial loss if there are any misrepresentations or inaccuracies in representations or warranties.

In the short term for Canada, Legrand pointed out that a few issues pop up that might bolster R&W insurance demand. For example, he cited "transactions in Alberta's energy market, which could boom given the number of companies in financial difficulties."

In addition, he noted, "on the horizon, analysts are predicting a high level of activity in the marijuana sector given the legalization of the product."

Legrand's expectation is certain organizations, pharma companies, will look to "move in now that the fear factor, whatever factor, is slowly shifting away."

GROWING GAP BETWEEN INSURED AND ECONOMIC LOSSES

A dramatic loss scenario around disaster events is developing globally, contributing to a widening gap between insured and economic losses, Alex Kaplan, senior vice president of global partnerships for Swiss Re, suggested during a session at the 2016 RIMS Canada Conference.

"If you tie urbanization together with globalization and the onslaught of potential for climate change, it creates a very dramatic loss scenario," Kaplan said.

Though events have increased in both severity and frequency, that is likely only part of the story, he suggested. "Really, what's driving this is the change in the exposure," he explained, noting it is "the massive accumulation of assets in the





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most disaster-prone areas (for example, by water) that are leading to these losses," Kaplan said.

"The alarming trend is the divergence between the insured portion and the total economic losses over time," he told attendees of the session.

This same divide is also playing out in Canada, he suggested, noting insurance losses from events for the last five years have been in excess of \$1 billion "and that continues to climb."

Canada sees an average of 20 to 25 large or medium-scale events annually, Kaplan reported. "Again, a lot of it has to do with the concentration of exposure," he pointed out.

"We have a new fiscal reality that changes our risk retention, our risk appetite," Mark Day, executive director of risk management and insurance at Alberta Treasury Board and Finance, noted during the session.

Despite challenges and the new fis-

cal reality, "a lot of lessons have been learned from recent disasters," such as the Slave Lake, Alberta wildfire in 2011, the southern Alberta flooding in 2013 and the Fort McMurray wildfire in 2016, Day said.

As it stands, "mitigation is a key driver for the province. Most costs are not covered by the DFAA (Disaster Financial Assistance Arrangements program) and can be the most significant spend," he told attendees.

BUDGETS MUST NOT TRUMP RESILIENCY PLANS

Resiliency plans are unlikely to ever be perfect, but they are an increasingly important element of an organization's response to crisis, attendees of the 2016 RIMS Canada Conference heard.

During the plenary session, Resilience: 9/11 and how it changed the industry, Neil Harrison, global head of claims for Aon Risk Solutions, and Alan Kurth,

risk manager for Marsh & McLennan Companies, shared their personal experiences and insights following the terror attacks in New York City September 11, 2001. Harrison said Aon lost 190 colleagues, while Kurth reported that Marsh lost 295 colleagues.

Despite the clear need for — and the value of — resiliency plans, "the issue that we all struggle with as risk managers is there's budgets," Kurth told those assembled. "You have to figure out what are the most critical business assets and you have to deploy the resources where it makes most."

One concern is getting "funds to allocate to something where your management would rather take it and invest it into something that can make money," Kurth suggested. "None of that is going to happen if anything happens to the fort. You really have to spend the time and have the plans to focus on the critical aspect of your business for when that



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crisis does happen," he emphasized.

"Any company, any firm, any organization can only spend its dollar once," Harrison pointed out. "It's sometimes easy to invest in something that's perhaps a little more exciting than the risk management arena is perceived to be if we haven't been through an event recently. So, complacency, to me, is a big risk."

Kurth's advice would be to make busi-

ness resiliency plans broad. "If you make them too specific, you're going to find yourself not being able to think out of the box and you have to be adaptable when it happens," he said.

As well, testing is critical. "Although all the testing in the world is probably not going to come out perfect when you have your crisis, you will be better off when you're faced with it," Kurth said. To risk managers, Harrison said he is not "sure any of us are yet spending as much time as we can scenario planning and testing policies."

That said, "have we as an industry progressed? Overall, are we better prepared? The answer is yes," he noted. "Can we declare victory? The answer is no."

TAKING STEPS TO ADDRESS BUSINESS INTERRUPTION

Assuming certain costs may be a good thing for companies experiencing a business interruption (BI) and looking to get operations back up and running, Glenn Nadworny, a claims adjuster with Crawford Global Technical Services, suggested at the 2016 RIMS Canada Conference.

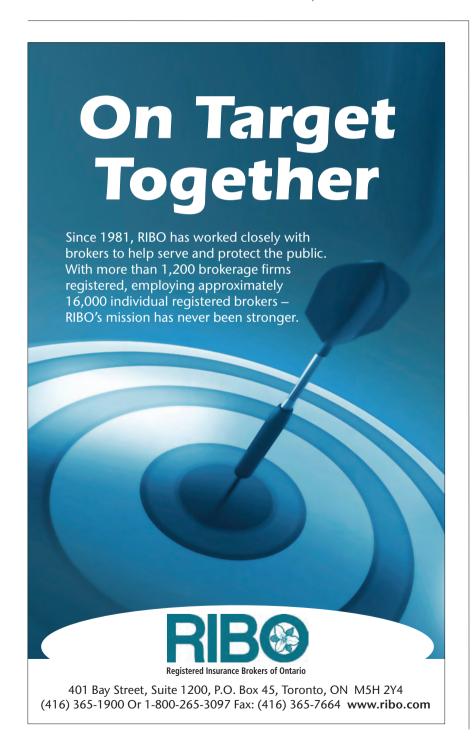
"There is going to be some costs that the insured incurs during and after the loss, which are both necessary and prudent for them to reduce their loss of property and interruption of their business and also to continue their operations in as normal a manner as possible," Nadworny explained to attendees of the session, Business Interruption: Minimizing the cost of business interruption losses.

"These costs are understood by insurers to be beneficial in reducing the ultimate business loss to the insured," he pointed out.

"Some of the key items to minimize potential business interruption loss is getting other professionals involved early in the process," emphasized Jay Strano, managing director of Crawford Forensic Accounting.

Strano emphasized the need to have "a dialogue with the insured about what's going on with their business."

All potential risks associated with the loss should be outlined based on the specific insurance policy and on the business environment, notes a slide from the presentation. Factors to consider regarding the insured's business include products and services; production capacity (manufacturing versus retail); building capacity; marketing ability, experience and management depth; contracts, leases, etc.; seasonality, location, operating hours, etc.; multiple lines of business; and ability to make up sales.





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Material **Disclosure**

In a ruling in favour of SGI and Galon Insurance Brokers, a Saskatchewan court found that a plaintiff knew, or should have known, that his decision to rent to tenants was material to the risk of insuring his home.



Jennifer Pereira Partner, Robertson Stromberg LLP

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A recent Saskatchewan court ruling against a homeowner, over a disputed claim, offers some food for thought to underwriters familiar with a frequently-discussed distinction in insurance law. There is a difference between conduct that represents a breach of a policy condition and conduct that causes a loss to fall outside the insured risk.

On June 27, the Provincial Court of Saskatchewan, Civil Division, released its ruling, Zheng v. John Galon Insurance Services Ltd.

Jialong Zheng had purchased a habitation policy, written by SGI Canada, from Galon Insurance Brokers. In claims disputes, the consequence of a breach of condition may be quite different from the consequence of a misrepresentation.

Zheng's home was damaged when a fire broke out. Subsequent investigation by SGI revealed that he had three paying tenants living with him at the time of loss. SGI denied coverage under his "owner-occupied" policy of home insurance on the basis that his decision to rent his premises to a number of tenants constituted both a misrepresentation and a "change material to the risk within the control and knowledge of the insured."

With respect to Zheng's claim against the broker, the court found that there was no breach in his duty of care to the plaintiff. In fact, the court found that the broker exceeded the standard of care required of him by satisfying himself that the plaintiff understood the application process and took the step of ensuring, in writing, that the insured understood the importance of providing accurate information by asking important questions in a number of different ways.

The court also found that the broker was not negligent in failing to provide the plaintiff with a copy of the policy booklet once the original meeting finished because there was no evidence to suggest such failure had an impact on the plaintiff's loss. The court concluded the plaintiff knew, or should have known, that his decision to take in paying tenants was material to risk because the many questions put him on the application form made it clear that the issue of renters was important to the insurer.

BREACH OF STATUTORY CONDITIONS

In its defence, insurer SGI Canada relied upon breach of two of the statutory conditions in denying coverage. The plaintiff argued that the denial amounted to a breach of contract on the basis that each statutory condition relied upon spoke to circumstances that "are material to be made known to the insurer in order to assess its risk" (the misrepresentation statutory condition) or "any change material to the risk and within the control and knowledge of the insured" (the material change statutory condition).

In a novel argument, the plaintiff took the position that he did not know that having pay-



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ing tenants increased the risk that might be considered by the insurance company, and that having never received a statistical data analysis that shows tenants are a higher risk than an exclusively owner-occupied home, he could not have known. The plaintiff took his argument further by stating an insured need only disclose a material change in risk if he or she is subjectively aware of the fact that the change in risk would, in fact, be material.

The plaintiff's argument on this issue merits a review of recent Canadian care law as to when non-disclosure or disclosure is "material."

DUTY TO DISCLOSE

It is well-established that an applicant's duty to disclose facts material to the risk extends only to past and present facts at the time the contract of insurance takes effect. However, insurers commonly insert terms into their policies obliging the insured to disclose material changes to the risk. This term is found in the statutory conditions pertaining to property, fire and automobile coverage in insurance legislation across the country.

What constitutes a "material" misrepresentation is a question of fact in each case, and may vary according to the type of insurance in issue. The onus of proving materiality is on the insurer.

The test of materiality is not what is material to the particular insurer, but what a reasonable insurer would have done or how a reasonable or prudent insurer would have reacted to the true facts.

As noted in Brown & Menezes, Insurance Law of Canada, Volume 1, where an insurer fails to ask about a matter, the court may draw an inference that the insurer does not consider that matter relevant. The authors go on to observe that if a "customer answers truthfully according to a reasonable interpretation of a question which is ambiguous or inadequately worded, s/he will not likely forfeit a claim on grounds of misrepresentation or nondisclosure."

In a related footnote, the authors opine that cases where the insured succeeds "may turn less on the court's perception that the information is not material than on its view that an insurer should not be allowed to benefit from a problem it has created through poor drafting of its application forms."

Thus, the fact that a particular insurer regards a fact as being material does not necessarily determine its materiality in objective terms. An insurer can demonstrate the materiality of the misrepresentation in question where its own practices are in conformity with general industry standards.



Expert evidence regarding materiality of undisclosed or misrepresented information is important in establishing industry standards. However, the fact that another underwriter might have declined the risk or charged a higher premium on the basis of the information provided by the applicant will not be relevant where the evidence is clear that the underwriter in question would not have done so.

The evidence of insurance brokers and underwriters as to the materiality of a misrepresentation in an application for insurance is admissible.

An insurer's failure to ask a particular question may lead a court to find the insurer did not consider the question to be relevant. Conversely, the fact that a question is asked in the application form constitutes some evidence of its materiality.

The applicant has a duty to use reasonable diligence to see that the answers are correctly written, and whether or not he or she read the form, the law generally treats him or her as having adopted it.

This was considered recently by the Court of Appeal of New Brunswick in Thomas v. Aviva Insurance Co. Hubert Thomas, had purchased "multi-peril" homeowner's insurance from the defendant insurer. The plaintiff's policy incorporated Statutory Condition IV restricting coverage where material change in risk, known to and within control of insured, arose.

In the application questionnaire, the plaintiff was asked what his primary heating source in residence was, and he truthfully answered electrical heating. The plaintiff subsequently installed a wood stove into his home. At no time did Thomas advise Aviva of its installation, nor was Thomas ever asked.

FAILURE TO INQUIRE

There was a fire at the insured's home caused by the wood stove and coverage was declined on the basis that installation of the stove constituted material change in risk known to and within control of the insured. The court found that within the insured's renewal documentation, Aviva "effectively advised [insured] that only the information provided in the original application was material to the risk." As the insurer failed to make appropriate inquiries of insured and treated auxiliary heating sources as "inconsequential," the court found that the insurer could not now deny coverage on the basis of material non-disclosure.

In insurance law, generally it is important to distinguish between a condition of the contract and a restrictive definition of the risk assumed under the contract. There is frequently a problem in which events or behaviour of the insured fall into one or the other of the two categories. One is breach of condition; the other is conduct that takes the insured property outside the risk.

These two concepts are very similar and are designed to achieve the same purpose: to limit and control the risk assumed by the insurer. Because of this inherent similarity it is easy to confuse the two concepts.

However, it is important to avoid such confusion because the consequence, in insurance law, of a breach of condition may be very different from the conse-



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quence of a misrepresentation.

In the 2005 decision, Marche v. Halifax Insurance Co., the Supreme Court of Canada interpreted Section 171 of Nova Scotia's Insurance Act (which is identical to Section 151 in Ontario). Here, the insurer denied a fire loss claim due to an earlier period of unreported vacancy that was unrelated to the loss, because the property was not vacant at the time of the loss. The insurer nonetheless argued the earlier vacancy constituted a material change in risk that voided the policy.

The trial judge found that Section 171 relieved the insured of any policy breach because the insured had rectified the vacancy prior to the loss. The main issue argued in court was whether Section 171 applied to statutory conditions (it does), but the court also considered and found no reason to interfere with the trial judge's finding that Section 171 applied.

The Supreme Court of Canada did not lay down any specific test for determining whether Section 171 applied, but

noted it is not essential that a statutory breach be causally related to the loss. The court recognized the conflict that exists between the "draconian consequence of policy cancellation where the change material to the risk has been corrected" and the loss of insurer's right to cancel the contract due to a material change in risk, and found in favour of the insured.

MATERIAL TO THE RISK

The simplest distinction between "misrepresentation" and a "change material to the risk within the control and knowledge of the insured" is that a breach of condition cannot be unilaterally cured by the insured. If the insured has breached a policy condition, the insurer may void the policy even though the breach was temporary in nature and did not lead to any loss, even if the breach did not, in fact, alter the risk. Instead of voiding, the insurer may, if it chooses, waive the breach and continue with the policy.

Returning to the Zheng decision, Sas-

katchewan's provincial court found that the plaintiff was not required to have subjective knowledge of whether or not a change in risk was material before the insurance can be voided. It was not necessary that the fire had to have been caused by a tenant in assessing whether or not the change in risk was material.

The court concluded the plaintiff knew, or should have known, that his decision to take in tenants was material to the risk. The court reached this conclusion because, unlike the insurer in Aviva v. Thomas, the questions put to the plaintiff in the application process made clear that the issue of renters was important.

This is a helpful reminder to all insurers. Material facts are those which, if known by a reasonable insurer, would have influenced its decision to decline to offer insurance, or alternatively, charge a different premium for the insurance provided.

If a fact is material, it is crucial that it be highlighted and brought to the attention of a potential insured.







Opinion/Analysis

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John Grow Partner, Prestige Evaluations

Choosing a properly qualified appraiser for contents such as fine art, jewellery and historical items can be of benefit to the broker, carrier and insured.

When a consumer with valuable contents — such as jewellery, collectibles and fine art — buys a home insurance policy, choosing a qualified appraiser is in the best interest of the broker, the policyholder and the insurance carrier. However, just as not all carriers and brokerages are created equal, not all personal property appraisers are created equal.

Policyholders frequently rely on many types of appraisers, including real estate, immovable property, business valuation, machinery and equipment. In each of the aforementioned specialties, the property in question needs to be appraised by an educated professional with a strong financial

background and industry knowledge.

The associations to which those appraisers belong is not something to be taken lightly. Many belong to the American Society of Appraisers (ASA) or the International Society of Appraisers (ISA). Such accreditations provide a way for a client to verify credentials and membership.

In a home, contents sometimes include more than just furniture and household items. Some homes also contain fine art, antiques, jewellery, watches and clocks, musical instruments, furniture, household contents, artifacts, historical items and military equipment.

An appraiser who estimates the value of such items needs a proper educational background in the field, plus an appreciation of the maxim that the more one learns, the less one knows.

Many appraisers will be covered not only by errors and omissions insurance, but also by liability insurance in case they accidentally damage the property they are inspecting. For example, an appraiser may accidentally put his or her hand through a piece of valuable art or drop a fragile

DRIVE YOUR BUSINESS FURTHER



item that is worth thousands of dollars.

With ISA — which has chapters in Canada — the combined knowledge that each member brings to the table is very large, and that knowledge is shared.

The membership requirement is strict. In order to qualify for membership, one needs to go through valuation courses and Uniform Standards of Professional Appraisal Practice (USPAP). In addition, membership requires each person to maintain a number of professional development credits per year, and to be involved within ISA chapters.

There are three member levels: Member — ISA; Accredited Member (ISA-AM); and Certified Member, or ISA-Certified Appraiser Personal Property (CAPP).

In addition to the requirement to pass exams and obtain continuing education credits, a member needs to have a background in the field in which he or she specializes and needs to go through peer review.

PROPER WORK FILE

Unfortunately, not all appraisers have the same qualifications. Some people take a few courses and call themselves "certified appraisers," but do not belong to a society such as ISA or ASA.

The terms "Certified & Accredited", "USPAP-certified" or "Licensed Certified Appraiser" sound very nice, and look good on paper. However, a real professional appraiser is not an auctioneer, an antique or fine art dealer, or a person who handles estate sales.

An auctioneer or dealer could provide a sales estimate, but that is not an appraisal. A qualified appraiser can provide a verbal opinion of value, as long as he or she maintains a proper work file, which includes photographs, comparable research and documented methodology. The work file should include notes on details — such as condition, make or special marks — of the piece. For example, with art work, a work file might have information on whether or not it has been exhibited or catalogued.

There is always the possibility that an insurance carrier will dispute the policyholder's appraisal of the value of



There have been numerous cases in which a claimant provided a two-page manifest of antique items or fine art, with just one line and an amount per item. This does not benefit the client if there is a claim.

expensive content. Therefore, there are numerous benefits — to the broker, the insurer and the insured — of using a real appraiser.

"As an insurance brokerage, we find that having our clients' collectibles and jewellery appraised by a member of the (ISA) gives us peace of mind," reports Colette Mendenhall, president of ASSURART Inc. "We are not concerned that the validity of the appraisal will be questioned by the insurer in the event of a claim."

Both an insured and a carrier can be assured that a real professional appraiser would not overestimate the value of the item. In the event of a claim, a professional appraiser could provide docu-

mentation that a claims examiner could use to determine whether there is a total loss or whether the item could be repaired or restored.

There have been numerous cases in which a claimant provided a two-page manifest of antique items or fine art, with just one line and an amount per item. This does not benefit the client if there is a claim — especially if the claim is denied due to lack of documentation.

PROPER VALUATION

When using an appraiser who is not properly qualified, there is a risk of having valuables undervalued. There is also the risk of an insurance policy being written for an amount that is a lot lower than the replacement cost.

An additional risk is that the item could be overvalued, both in market value and replacement cost, thereby resulting in the client paying a higher premium than warranted.

A qualified appraiser would also not be in a conflict of interest because he or she would have no vested interest in the items that are being appraised. Properly qualified appraisers are not art dealers, antique dealers or persons who would buy and resell. Some appraisers do broker items for their clients, but in those cases, the relationship changes from an appraiser to that of a broker.

Among the fastest-growing markets for insurance underwriters are watch collectors and watch-buying co-operatives.

Today's professionals are buying antique, vintage and current watch models. Many antique and vintage watches are irreplaceable. The type of appraisal report required for insurance underwriters is much more detailed that what some jewellery stores might provide.

A personal property appraiser is more of a generalist, with expertise in appraisal studies. A fine art appraiser might have his or her interest, but the types of work, medium and subject matter is vast.

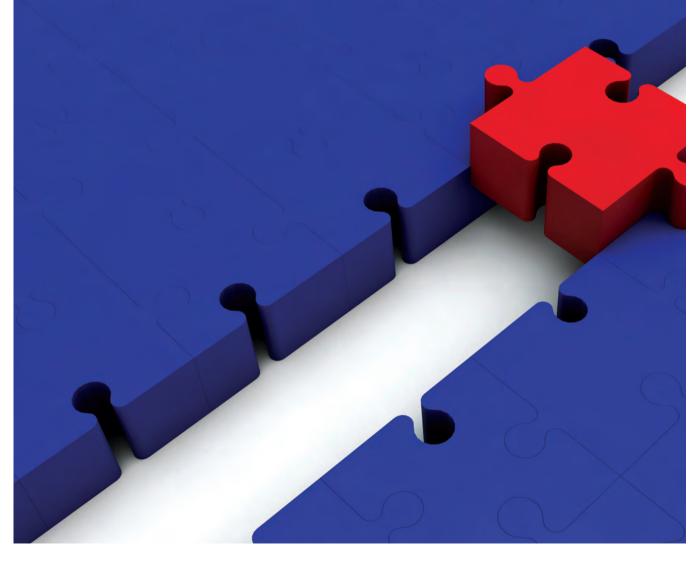
This is why a serious appraiser will belong to an appraisal society, seek the help of fellow appraisers and increase his or her level of education in the field through specialized courses.

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Bridging the Gap

Brokers have an obligation to advise clients not only on coverage gaps, but also what insurance is available. Experts caution that small businesses can have complex risks and personal lines customers need to be asked about any commercial use of their assets, especially if they expect visitors to their home offices.

GREG MECKBACH





Small businesses may have coverage gaps in areas such as employment practices and cyber risk, and brokers need to ask the right questions and advise on availability of coverage, industry professionals say. Meanwhile, Canadian courts have consistently held that brokers have a legal duty to advise business clients on foreseeable risks.

"A lot of small businesses can be pretty complex when it comes to their exposures," reports Crystal Rogers, general insurance broker and Autoplan supervisor at Port Moody Insurance Services, part of the InsureBC group of brokerages, based near Vancouver.

Two liability risks to small firms that are often not addressed are claims from employees and claims from stakeholders (such as debt and equity holders), suggests Andrew Clark, chief executive officer of Toronto-based brokerage ALIGNED Insurance Inc. Clark says brokers should ask small business clients about their ownership structure and sources of revenue.

"What we tend to find is small businesses are doing a lot of different things in a lot of different ways," reports Clark. "It may be through separate legal entities; it may be through incorporated companies. It may not. Just to understand the legal framework first and foremost is kind of our starting point, and then from there, understanding the various revenue streams."

Asking such questions "tend to impact upon questions that they may have or scenarios that may not have been thought of and then, obviously, you can translate those into the coverage," he adds.

"Small enterprises present unique exposures," warns Nazir Haji, senior vice president of business development at AEGIS London, the British subsidiary of Associated Electric & Gas Insurance Services Limited, which acts as the Lloyd's underwriting agent for AEGIS Syndicate 1225.

"While the content amounts are usually small, business interruption, equipment breakdown and errors and omissions are significant exposures that need to be evaluated," Haji says of small businesses. "In addition, liability coverage that is unique to the exposure must be thoroughly evaluated for the limits required."

Brokers serving small business clients should ask what happens if the insured has to operate from somewhere else, and whether or not it has contingency plans, Haji advises.

A broker who fails to ask the right questions could be sued for negligence if a claim is denied due to a coverage gap. The Court of Appeal for Ontario explained the brokers' legal duty of care in a decision released almost 40 years ago.

Bridging the Gap

That ruling — cited as Fine's Flowers Ltd. et al. v. General Accident Assurance Co. — continues to be cited today when claimants sue brokers for negligence and/or breach of contract after claims are denied due to coverage gaps.

The Fine's Flowers ruling was cited this past June, by the Provincial Court of Saskatchewan, in Zheng v. John Galon Insurance Services Ltd.

Jianlong Zheng's Regina residence was damaged by fire. Zheng was unsuccessful in a lawsuit against both his broker and Saskatchewan Government Insurance (SGI) after his homeowner claim was denied. Court records indicate that Zheng had renters. However, Zheng had indicated on his application form that he was not seeking coverage for rental income.

The Fine's Flowers ruling was also cited in 2013 in Bronfman v. BFL Canada Risk and Insurance Services Inc.

Fine's Flowers sets out the "general nature of the duty of an insurance broker," wrote Justice Elizabeth Stewart of the Ontario Superior Court of Justice, in 2013, in Bronfman.

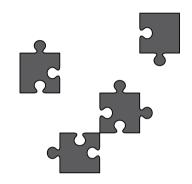
CLIENTS RARELY READ POLICIES

The Toronto home of Paul and Judy Bronfman was broken into in 2008. A safe containing jewellery and cash was stolen. Court records indicate the Bronfmans' homeowner policy, written by American International Group Inc., had a limit for contents of more than \$2 million. However it also had sub-limits of \$10,000 for jewellery, \$5,000 for furs, \$5,000 for stamps and coin collections and \$1,500 for cash, among others. Due to those sub-limits, much of the loss from the theft was not covered.

BFL Canada Risk and Insurance Services Inc. — which had placed commercial insurance for Paul Bronfman's company — also started placing his home insurance in 2004. After AIG denied his claim due to lack of coverage, Bronfman sued BFL for breach of contract and negligence, claiming he "ought to have been clearly warned about these policy limits for jewellery and advised that additional coverage

for this valuable property was available," Justice Stewart wrote.

BFL argued that the Bronfmans were aware of the coverage limits on losses of jewellery. An expert witness in the trial, James Bonnay, testified that "few clients ever read their insurance policies or, if they do, rarely actually understand their complex provisions." Bonnay told the court that "the broker's role and obligation is to explain the extent of coverage to clients and to point out any relevant gaps."



"A lot of small businesses can be pretty complex when it comes to their exposures," reports Crystal Rogers of Port Moody Insurance Services.

Bonnay has been involved in the disciplinary arm of the Registered Insurance Brokers of Ontario, Justice Stewart noted.

Justice Stewart ruled against BFL, finding that the BFL broker had a "lack of appreciation of the likelihood that the Bronfmans owned valuable jewellery worth well in excess of \$20,000," and failed "to ascertain the true extent of their possessions and to provide them with advice as to how much special coverage they needed."

Justice Stewart noted that in Fine's Flowers, the Court of Appeal for Ontario "held that an insurance agent's duty when asked to obtain a specific type of coverage is to use a reasonable degree of

skill and care in doing so and to inform the principal promptly if such coverage is not available."

In Bronfman, the defendant broker appeared to "take the position" that the insureds were "required to read their policies and the letters which accompanied them," Justice Stewart noted.

Commenting on Fine's Flowers, Justice Stewart added: "If the principal was given no specific instructions, but relies on the agent to see that he is protected, then the agent, if he agrees to act on such terms, must inform himself of the principal's business in order to assess the foreseeable risks and to insure his client against them."

In ruling in favour of Fine's Flowers, the Court of Appeal for Ontario upheld a lower court ruling, released in 1974, against brokerage firm Ault, Kinney, Campbell and Gallichan Limited.

That broker had placed insurance for a retail store and garden centre in Ottawa operated by Harry Fine. That garden centre included greenhouses.

The heating system, in some of those greenhouses, failed in January 1968. Some of Fine's horticultural crops were destroyed.

Fine's Flowers made a claim under a boiler and machinery policy written by General Accident. That policy covered accidents to "objects." The heating system failed as a result of a failure in water supply pumps, but the boiler and machinery policy excluded wear and tear. Further, the pumps and motors in the greenhouse were not defined as objects in the policy.

REQUISITE SKILL

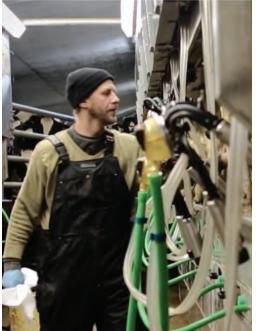
Fine's Flowers' lawsuit against insurer General Accident was dismissed, but the court found that Ault, Kinney, Campbell and Gallichan breached its duty of care.

The Fine's Flowers case was one "in which the client gives no such specific instructions, but rather relies upon his agent to see that he is protected and, if the agent agrees to do business with him on those terms, then he cannot afterwards, when an uninsured loss arises, shrug off the responsibility he has assumed," Justice













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Bridging the Gap

Bertha Wilson of the Court of Appeal for Ontario wrote on behalf of the majority. "If this requires him to inform himself about his client's business in order to assess the foreseeable risks and insure his client against them, then this he must do. It goes without saying that an agent who does not have the requisite skills to understand the nature of his client's business and assess the risks that should be insured against should not be offering this kind of service."

Justice Wilson — who was appointed to the Supreme Court of Canada in 1982 — cited Fine's Flowers in 1990 on behalf of Canada's highest court.

Fine's Flowers is the "leading Canadian case concerning the duty of care owed by private insurance agents and brokers," Justice Wilson wrote on behalf of five judges hearing an appeal from Manitoba Public Insurance (MPI).

MORE THAN SALES

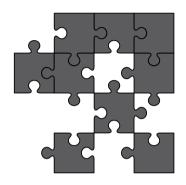
"It is clear that within the insurance industry, as also within the courts, private insurance agents and brokers are viewed as more than mere salespeople," Justice Wilson wrote, in 1990, in the Supreme Court of Canada's unanimous ruling in Fletcher v. MPI. "It is entirely appropriate to hold private insurance agents and brokers to a stringent duty to provide both information and advice to their customers. They are, after all, licensed professionals who specialize in helping clients with risk assessment and in tailoring insurance policies to fit the particular needs of their customers. Their service is highly personalized, concentrating on the specific circumstances of each client," she noted.

Thomas and Cheryl Fletcher were insured by MPI. They had been driving in Ontario when they were in a collision. The driver of the other vehicle was found responsible and damages were assessed at almost \$1.4 million.

But the at-fault driver only had \$500,000 in insurance and the Fletchers' MPI policy did not include underinsured motorist coverage (UMC). They sued MPI in Ontario, alleging breach of contract, misrepresentation, negligence

and breach of duty. MPI argued it had sent a one-page flyer to the Fletchers mentioning the availability of UMC, but the Fletchers said they thought they had the maximum available coverage.

An Ontario trial judge ruled against MPI. That verdict was overturned by the Court of Appeal for Ontario, but restored by the Supreme Court of Canada.



"Home office exposures are usually underestimated, particularly when customers are coming to the premises to pick up the products," warns Nazir Haji of Lloyd's syndicate AEGIS London.

"Subtle differences in the forms of coverage available are frequently difficult for the average person to understand," the Supreme Court of Canada noted in Fletcher v. MPI. "Agents and brokers are trained to understand these differences and to provide individualized insurance advice. It is both reasonable and appropriate to impose upon them a duty not only to convey information, but also to provide counsel and advice."

An insurance broker or agent "needs to understand the scope and details of their client's business as clearly as possible," suggests Steve Marchese, an Ottawa-based agent for State Farm in Canada, commenting in general, not on the Fletcher or Fine's Flowers rulings.

"It is important to ask a lot of pertinent questions, and read their website if they have one," Marchese says of small business. "A part-time business owner might not be as familiar with the different risks facing them as someone who is full-time or owns a larger business with lots of tenure. One nail salon might only do nails while another is doing waxing, facials and tanning."

EMPLOYMENT PRACTICES

Clark suggests that the "most frequent" conversation that ALIGNED brokers have with small business clients is on the risks that are not covered by either a property or commercial general liability policy.

"How are you protecting the management team if things go sideways and things go bad?" asks Clark. "There is a lot of risk embedded in starting a business, and as we know, a lot of new businesses tend to fail within the first couple of years," he notes.

When a firm goes under, one risk includes "outstanding statutory liabilities like unpaid taxes and unpaid wages, as well as litigation from creditors and shareholders against the management team," Clark reports.

"Once you have clarity on the organizational structure and the legal structure you can start to get into the conversations about how to de-risk the management side of things, and that is an important conversation that sometimes is missed in the small business space."

Another exposure for small firms is employment practices liability, Clark suggests.

Rogers agrees, suggesting that small business managers "tend to trust their employees more."

If a dispute with employees reaches the litigation stage, Rogers suggests, there could be legal defence and settlement costs.

"A lot of small business owners don't seem to think of it that way," Rogers reports. "They trust that their employees are not going to steal from them, or



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Bridging the Gap

they would never have a dispute arise when, in fact, it does probably happen more often than not."

Small firms also face the risk of human rights complaints, adds Clark. Those "typically" arise from allegations based on a prohibited ground of discrimination or "allegations of lack of protection or discrimination" based on factors such as gender, sexual orientation or religious beliefs, he reports.

Another risk is contingent business interruption, Haji suggests. A broker advising a small business client should ask whether the insured is relying on suppliers, and if so, "what if those suppliers are affected by fire or storm?"

DATA BREACHES

Small businesses "actually have significant risks for things that they don't think about," warns Rogers. "A lot of cyber stuff is happening nowadays due to employee error and the systems that they use are not as sophisticated as those of big, big companies that actually have money to hire risk management departments," she explains.

Brokers should consider offering small businesses a separate cyber extension endorsement, Haji advises.

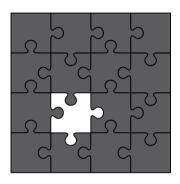
One firm that was sued in Canada in connection with a data breach was Home Depot, whose payment card system was hacked in 2014. A settlement in a class action lawsuit was approved by an Ontario court, in a decision released August 29.

Even though there was no evidence that a class member absorbed a fraudulent charge, and even though the court found the case against the retailer was "proven to be very weak," the court valued the settlement at about \$400,000.

An expert witness for the plaintiffs "outlined three heads of damage to consumers from a payment card breach," Justice Paul Perell of the Ontario Superior Court of Justice wrote. The first is "the risk of a fraudulent charge on one's credit card." The second is "the risk of identity theft" and the third is "the inconvenience of checking one's credit card statements."

But Justice Perell found there was "little risk of fraudulent charges because of sophisticated safeguards developed by credit card companies," and because "when there are frauds, the losses are almost always absorbed by the credit card company or the retailer."

An expert witness for Home Depot — Telus Corporation security solutions director René Hamel — "testified that despite utmost diligence and efforts to prevent data breaches, companies remain vulnerable because hackers con-



"A part-time business owner might not be as familiar with the different risks facing them as someone who is full-time, or owns a larger business with lots of tenure," reports Steve Marchese of State Farm Canada.

tinually develop new malicious code and the game of cat and mouse continues," Justice Perell added.

The settlement cost included counsel fee, approved by the court, of \$120,000, to the law firms that represented the plaintiffs. Court records indicate the firms requested counsel fee of about \$460,000.

"Anyone who accepts any bank cards could be hacked," warns Haji.

Notifying customers of data breaches could become mandatory next year.

In 2015, Canada's Personal Information and Protection of Electronic Documents Act (PIPEDA) was amended to provide for mandatory breach notification. The amendment to PIPEDA was brought in with the Digital Privacy Act, Bill S-4.

Bill S-4 would require firms to notify people if their personal information has been lost "and there is a potential to expose us to harm," said Joan Crockatt, then the Conservative MP for Calgary Centre, in the Commons in October 2014.

"The time frame companies would be given to do this under this bill would be as soon as was feasible. For example, if a company's computer system was hacked and the clients' credit card information was stolen, the company might need a week to put a fence around it and figure out how many people had been affected," Crockatt added.

The mandatory breach notification regulations "are not yet in force," Vance Lockton, senior analyst for stakeholder relations at the Office of the Privacy Commissioner of Canada, said April 30 during a presentation at Insurance Telematics Canada in Toronto.

"The most recent timeline that we are hearing is that it will probably be in force somewhere around the fall of 2017," Lockton reports.

UNIQUE RISKS

"As we continue to hear about data breach events and privacy events and the legislation continues to evolve, and the responsibility of organizations increases, the conversation around cyber risk with every client is important, whether they are big or small," Clark contends.

Another possible coverage gap is directors' and officers' liability, Clark suggests.

"It sounds like a big business question," he says. "It is a big business question and a middle-sized business question, but it is a small business question as well."

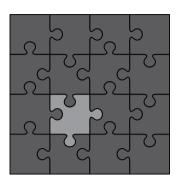
Certain types of operations have unique risks, Clark adds.

"There are a lot of contractors who come into contact with asbestos or

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"Once you have clarity on the organizational structure and the legal structure, you can start to get into the conversations about how to de-risk the management side of things, and that is an important conversation that sometimes is missed in the small business space," says Andrew Clark of ALIGNED Insurance.

similar materials," Clark says. "Say they are doing a renovation on a home and they run into these materials. If only the traditional (commercial general liability) policy is purchased and not a fullsome contractor's policy that includes pollution and contaminants, that can be an issue for smaller contractors."

Brokers should ask personal lines customers whether or not there is any commercial use of their vehicles or other assets, suggests Clark.

"Clients do not necessarily think of themselves as personal lines clients or commercial lines clients," he reports. "They just think of themselves as clients. It's not always intuitive for them to appreciate that there are significant differences (between coverage for personal use and coverage for commercial use) and potential risk in not sharing that information."

Marchese echoes Clark's advice. He suggests that an agent or broker should ask a personal lines customer whether or not he or she owns a business, whether or not he or she ever drives the car for compensation and whether

or not there is any child care business being conducted in the home.

Day care and babysitting can open a large liability exposure, Rogers warns.

"One of the questions we always ask on any new business application is if they have any sort of day care or if they are babysitting children and things like that," she reports.

Some insurers cover business use on home insurance policies in certain circumstances, Rogers suggests.

"It depends what kind of business it is," she notes. For example, for a small home office, if "there are no customers, clients or couriers coming on to the premises, [some insurers] will say, 'Yeah, that's fine. There is no exposures for the property.' But those might require a professional liability [policy] or something like that for the type of work that they are doing."

SLIPS AND FALLS

Brokers and agents need to educate personal lines customers on the limits in their policies for home and personal use, Marchese suggests.

"For example, a music teacher in the home might not realize that there will be a very low business contents limit on their instruments and a supplemental business policy will be needed," he points out.

"Home office exposures are usually under-estimated, particularly when customers are coming to the premises to pick up the products," warns Haji. "Slips and falls causing bodily injury are quite common, so it is prudent that these exposures are managed."

When renewing personal lines policies or binding new policies, brokers need to check the client's occupation, Rogers suggests.

"The reason to do that is to make sure they do not have a business or that they work for themselves or that they have work being done in the home," she advises. "A lot of personal lines policies won't cover any risks to do with the business itself. So one of our procedures (is) to make sure (that) if they are in business for themselves, that they are getting the proper coverage so there are no blurred lines if there is a claim."



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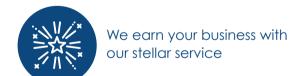
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Quake Coverage



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Brokers in Quebec should offer earthquake coverage on every new policy sold and carefully document customers' refusals to purchase such coverage.

Of all the various types of risks and perils that are covered by insurance, earthquake is one of the least understood perils that brokers insure. The peril is misunderstood because earthquake events causing sufficient damage to structures to warrant an insurance claim are very rare.

While there are approximately 30 earthquakes per month in Quebec, few are detectable by humans. Few perils have such a low frequency and, yet, can also have severity that ranges into the billions of dollars per event.

In February 2015, Insurance Bureau of Canada

(IBC) published a report on earthquake in Canada which highlighted information that had been presented at its first earthquake conference in Vancouver in October 2014.

The report — Preparing Canada for Earthquake: A National Conversation — describes the potential damage caused by a 7.1 Richter scale event in Quebec's Charlevoix seismic zone. Direct property losses are estimated at \$49 billion, while indirect losses (business interruption) are estimated at \$11 billion.

Natural Resources Canada estimates there is a 5% to 15% likelihood that this type of event will occur within the next 50 years. In other words, the country has between a one in 20 and a one in seven chance of a major quake in the next 50 years.

The magnitude of the projected losses — \$60 billion — is significant. That would be the equivalent of 25% of Quebec's annual gross domestic product.

However, only 4% of Quebec homeowners currently insure their dwellings for quake. There-



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LEGAL EXPENSE





fore, the magnitude of uninsured losses could be substantial. If 20% of projected direct losses are to homes, the uninsured exposure for homeowners alone is \$9.4 billion. IBC projects total uninsured losses at \$48.3 billion.

The ability of the provincial government to provide aid to uninsured homeowners and businesses will be limited by the effects of the earthquake on the Quebec economy. Overall, tax revenues for the government will be significantly reduced based on lower economic output. At the same time, expenses — notably for the reconstruction of public infrastructure — would rise significantly.

Another area of significant concern for earthquakes is the resiliency of the construction sector — and the ability of building companies to ramp up capacity — to meet burgeoning demand for work subsequent to a major event.

Without a significant addition to construction capacity, it is reasonable to expect that reconstruction efforts subsequent to a major event would last over more than a decade.

For example, Christchurch, New Zealand — which was hit by a series of earthquakes five years ago — is a good example of this phenomenon.

Only 9% of Quebec respondents believed they are at risk of experiencing an earthquake. One in three believe they are already covered by their policy for earthquake, when, in fact, only 4% of Quebec homes are covered.

Tim Grafton, chief executive of the Insurance Council of New Zealand, presented compelling data at an IBC conference regarding construction capacity and the duration of the claims horizon. Grafton delivered his presentation, Preparing for the Long Haul — The New Zealand Experience, at IBC's quake symposium in 2014.

Grafton said that he expects that commercial rebuilding efforts — after the February 22, 2011 earthquake that caused NZ\$40 billion in damages — will continue until at least until 2020. At press time, the New Zealand dollar was trading at C\$0.96.

In Canada, current policy wordings do not foresee anywhere near the duration

of loss that was experienced in New Zealand, particularly for commercial property owners. The insurance industry will have to address this exposure in the future, perhaps by offering extended business interruption coverage with longer claim horizons.

As well, the provincial government, insurers and construction unions need to begin planning now for how they will react in these circumstances.

In October 2015, IBC sponsored a survey of consumers in Quebec to measure the perception of risk and consumer knowledge of their insurance coverage regarding earthquakes.

In the SOM survey, only 9% of Quebec respondents believed they are at risk of experiencing an earthquake. One in three believe they are already covered by their policy for earthquake, when, in fact, only 4% of Quebec homes are covered. This compares to 45% of British Columbian homes insured for earthquake.

Clearly there is a need for a significant public awareness campaign to be undertaken to sensitize Quebecers to the level of risk to which they are exposed.

It is reasonable to expect homeowners will turn to their insurers seeking compensation for losses, even if the coverage





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is not provided by their contracts. This type of situation is not unprecedented.

Indeed, after the ice storm in 1998, many insurers were asked to read in coverages that were not in their contracts. More recently, after the 2013 flooding in High River, Alberta, insurers were asked to apply sewer back-up coverages to losses caused by flooding, even though overland flood was an excluded peril in all homeowner policies.

With a peril that has an extremely low frequency, the perceived risk of an event becomes remote. Clients will often reject the addition of earthquake to their policy to save on cost and because they do not believe a significant earthquake will happen in their lifetimes.

That said, the need to address the issue with clients is very real. Always excluded from base contracts, earthquake is a peril that should be added to a policy to ensure the client has proper protection.

Clients may be required to accept sig-

With a peril that has an extremely low frequency, the perceived risk of an event becomes remote. Clients will often reject the addition of earthquake to their policy to save on cost and because they do not believe a significant quake will happen in their lifetimes.

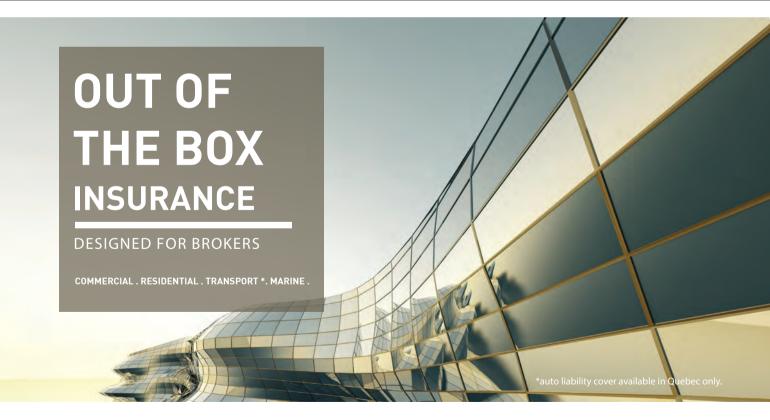
nificantly higher deductibles compared to other coverages; in commercial lines minimum deductibles of \$50,000 or \$100,000 are common. In personal lines, deductibles can range from 4% of building value to 10% of building value, often 20 to 40 times the standard policy deductible. Once informed of the risk

and confronted with the fact that the risk is excluded from their policy, the client can make an informed choice regarding adding the coverage.

What should brokers do to ensure that their clients are properly apprised of the risk and the fact that the coverage is not included in their policy? In short, brokers should offer the coverage on every new policy sold. They should also consider writing to every existing client with a homeowner, tenant, condo or commercial building policy.

In their correspondence, brokers should consider explaining the risk and offering to add earthquake coverage to the policy. When weighed against potential catastrophic loss, a premium of \$20 per month can seem pretty appealing.

If a client refuses to accept the coverage, the broker should ensure the client's file is appropriately documented to indicate the offer and the refusal of the client to add the coverage.



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As Insurance Claims Fraud Evolves, Technology is Fighting Back

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Mechanical Engineer, Ryan Cockle, P.Eng., joins the Origin and Cause Team

Sep 8 - by Origin and Cause

NIAC announces that they have developed a new software application called SeRA, which stands for 'Survey electronic Reporting Application'

Sep 8 - Nuclear Insurance Association of Canada (NIAC)

Industry veteran Ed Weidmann named Chairman of U.S. Industry Advisory Board of Accident Support Services International Ltd.

Sep 6 – by Accident Support Services International Ltd. (ASSI)

Jeff Setterington joins Evolution Insurance as Executive Vice President

Sep 6 – by Evolution Insurance Inc.

Vericlaim Canada acquires RGM Claims Services

Sep 1 - by Sedgwick

Brian King named 2016 International Investigator of the Year

Aug 31 - by King International Advisory Group

Origin and Cause Featured in The Globe and Mail's "Report on Business" Magazine

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Passion Play

Tara Chammartin, recipient of the 2016 Dale Rempel Award of Excellence, is more than willing to share her passion for broker professional development.

Angela Stelmakowich Tara Chammartin is passionate about a lot of things: golf, professional development (PD) and, of course, being a broker.

That interest may be, in part, because these passions share some commonalities.

"The golf game is good overall for a person because it really teaches you how to be patient," says Chammartin, operations manager for La Salle Insurance and Travel Services Ltd. in Winnipeg. "It doesn't matter if you're having a good game or a bad game; it still takes patience and focus and a commitment. It's kind of like being a broker. It really is," she says.

When passion combines with recognition, though, things can seem all the more meaningful. So it was with great honour that Chammartin discovered that her efforts to advance PD among brokers had been recognized with an award in the name of a long-time mentor, Dale Rempel, who passed away in 2012.

Chammartin is the recipient of the 2016 Dale Rempel Award of Excellence, established three years ago by the Insurance Brokers Association of Canada (IBAC) to acknowledge an individual who has demonstrated commitment and support of broker education, learning and PD.

"I am super-honoured, very excited," Chammartin says. "To have this award in his name is extremely, extremely rewarding to me."

The two met when Rempel was PD chairperson with the Insurance Brokers Association of Manitoba (IBAM), and Chammartin, then in her early 20s and in the industry for just a handful of years, was serving as the PD representative for IBAM's Young Broker Network.

An original member of the network, "Manitoba was the first province in all of Canada to start that and I was there from day one," she says with pride. "That is where I became very involved and my passion grew for the industry in itself."

Rempel's support and encouragement only

serve to help fuel that passion even further.

"I saw his involvement with what he was doing as far as PD for brokers across the country was, and I was kind of there along by his side," says the current IBAM president, a role she assumed this past April. "I learned a lot from him. He's kind of the one who really motivated me, I think, to become so involved and so I did."

UNPLANNED DESTINATION

Broker, IBAM president and brokerage partner were certainly not ambitions Chammartin had when she applied for a receptionist job at Confederation General Insurance in 1994. "It's not something you come out of high school saying, 'I want to be an insurance broker,'" she says, laughing.

That view quickly changed. After a couple of months at the brokerage, "I was like, 'This is kind of neat.' I thought, 'This could really be a career.'"

And so it began. Chammartin says that she poured all her effort into working, opting to do her fundamentals within the first year. "Then I started my (Canadian Accredited Insurance Broker designation) CAIB 1, CAIB 2, CAIB 3, CAIB 4. It just kind of all progressed," she says.

Chammartin remained at the brokerage for about eight years before weighing her options as to her next move.

By that time, she already knew Rempel. She began working at Rempel Insurance Brokers in Morris, Manitoba in 2001, staying there for just shy of a decade.

But with about a 45-minute daily drive each way to work — and her daughter becoming increasingly involved in dance, classes for which were in Winnipeg — Chammartin says that things just did not work schedule-wise, so she made the decision to find another position in the city.

"It was hard," she says of leaving Rempel Insurance. "It was probably the hardest decision of my life, because I very much enjoyed working

DALE REMPEL AWARD OF EXCELLENCE

with Dale and, I mean, he was my biggest mentor," she says.

"I would have never dreamt in a million years that I would have been an insurance broker. So to be in this for over 20 years already is, I think, a testament as to my passion and my dedication to the industry," Chammartin says.

She left Rempel Insurance as operations manager and currently serves in the same capacity at La Salle Insurance and Travel Services. Why?

"I love working with people; I enjoy dealing with the clients. That's not stuff I want to give up," she emphasizes.

Beyond the clients, though, is the ability to lead staff, "so teaching them, engaging them to learn more and giving them my experience," she adds.

It is experience that Chammartin is eager to pass along, as demonstrated by her years of delivering courses and volunteering at the provincial and national levels.

She has served on IBAM's Young Broker Network Committee, Conference Committee and Professional Development Committee, holding the position of chair at the last for more than eight years; organized the professional development aspects of IBAM's 2015 and 2016 conventions; joined IBAM's executive in 2014 and is current president; served as Manitoba's PD representative on IBAC's PD committee for about six years; and taught CAIB 1 and CAIB 3 course for many years.

"I enjoy teaching people about the industry, sharing my passion of the industry with them, which kind of engages them to become passionate about the industry," Chammartin says. "When I teach my classes, I think everybody knows that I'm a very passionate person about the industry in itself."

YOUTH MOVEMENT

Getting people excited about and engaged in the industry is essential — and a big part of that is attracting young



oto by Darc

people to the channel. "It's great to see and attract new people to the industry because they're going to be the ones who carry it forward," Chammartin points out.

Noting that her brokerage employs quite a few young people, "it's great because of their attitude, they're upbeat and they have a lot to offer as far as technology goes. They have ideas, they're creative," she says.

"I'm a huge supporter of education, so I'm constantly giving the okay to our staff to go ahead" with CAIB or beyond. "Let's see how we can continue to grow you and build you because the more experience and learning they do, it just makes them a better broker all around," she says of brokers.

"There's nothing more rewarding than taking somebody who has no experience in the insurance industry, engaging them to take the necessary education to get their licence requirements, etc., and then training them while still furthering their education," Chammartin maintains.

Brokers have "the opportunity to deal

with clients face to face, and I think people still enjoy that. Maybe the younger generation, not right now, because they're not familiar with it, will also learn to embrace that because you go to an expert for a reason," she suggests.

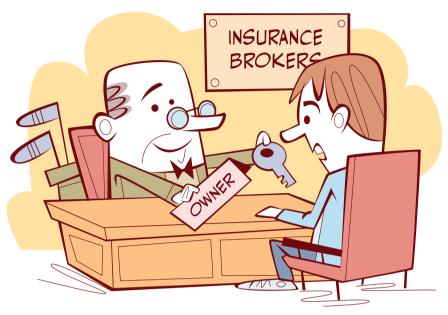
With things changing so quickly, so is the face of the competition. But Chammartin welcomes all that.

"Healthy competition is great. I'm not scared of online competition, personally, because the service that we offer as brokers will outshine a 1-800 number or an online quote any day," she says.

What does the future hold for Chammartin? She says she would certainly be open to doing more with IBAC at the national level, although for the immediate future, her hands are full being IBAM president and a new partner of an expanding business (her brokerage recently acquired two new locations).

That may leave little time for golf. "Sometimes I have some good games and sometimes I have games I don't want to talk about," she laughs.

Regardless what the scorecard reads, Chammartin is still on her game.



Changing Ownership



Brenda Rose Vice President and Partner, FCA Insurance Brokers

When developing perpetuation plans, brokerage principals need to consider financing for prospective successors. They also need to consider their brokerage experiences as well as soft skills, including positive attitude and the ability to enable and motivate producers.

Insurance brokers need to consider several factors when seeking new talent as part of their succession plans. Not only is experience in the insurance industry a must, but candidates also need experience at a brokerage and a holistic view of the different components of a brokerage.

Principals must also be ready to accommodate producers without enough cash readily available to buy a stake in the business.

It is easy for brokerage owners to love life. They get to work directly with customers, see the direct impact of their efforts on the operation's success, savour the freedom of making autonomous decisions and pursue areas of personal interest. While it has never been easy to become a brokerage principal, today it can be even more challenging than in the past.

The number of outside investor groups competing for ownership has proliferated. Like individual entrepreneurs, these investors — whether venture capital firms, private equity groups, international conglomerates or general insurance companies — are keen to buy into brokerages because they are viable, vibrant businesses with excellent growth prospects.

With heightened competition, existing owners can expect higher, harder-to-finance returns for relinquishing shares in their firms.

Another hurdle for individuals seeking ownership opportunities is the need for clear perpetuation strategies within existing firms. Sometimes, brokers can be guilty of working more "in the business" than "on the business," neglecting the recruitment of the necessary entrepreneurial talent in favour of growing operations.

Don Anderson, senior partner at FCA Insurance, testifies to this.

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Small Vendors (Public Market Vendors)
Mobile Homes
Hole-In-One Coverage

Contents-In-Storage Coverage



"I joined a firm of 10 people 42 years ago," Anderson reports. "In my first 10 years, we brought in young staff and they developed into partners and shareholders of a firm now employing nearly 100 people — but we were working so hard at effectively building our company that we forgot to keep hiring people who would eventually become our replacements. We did not specifically look for people who could develop into owners and then we had to correct our strategy," he adds.

The search for potential candidates requires planning and clarity around what qualifications are needed. Many people believe they possess ownership capabilities, but judging whether or not someone has the potential not only to succeed but to lead others to success, is a complex process. Culture is all important, unique to each organization. It can be difficult to find people with the right mix of experience, spirit, ambition and knowledge to fit in with an existing senior team.

In addition to technical insurance knowledge, specialized expertise and demonstrated sales skills, candidates need to possess leadership capabilities that are harder to define.

John McNeil, manager of learning and development at RSA Canada, and co-ordinator of RSA's Making Partner program for brokers, provides an inventory of minimum criteria, including the following:

- the willingness to view problems as opportunities;
- a contagious positive attitude and energy;
- professional, but personal demeanour:
- the desire to make those around them better:
- the ability to empower those around them and showcase their success;
- high, but realistic expectations for continuous improvement and reflection;
- a dedication to lifelong learning; and
- passion for their role to make a difference

McNeil elaborates on his shopping list. "I believe that people demonstrate the capacity to lead when they have proven

that: one, they care; two, they set their own higher standard that is committed to personal excellence; and three, by motivating, influencing and enabling those around them, to both directly and indirectly commit to greatness," McNeil says.



Many people believe they possess ownership capabilities, but judging whether someone has the potential not only to succeed, but to lead others to success, is a complex process.

Unfortunately, some who have ambitions to be principals do not recognize that helping others, and so building a culture and the organization, is critically important. New leaders need a holistic view, to appreciate how different components contribute to overall success.

Often producers work territorially within their own individual silos, without extending themselves to contribute to the common good; in effect, some sales cultures can perpetuate this narrow approach. Brokerages and individ-

uals all benefit and learn from sharing new perspectives, from openly discussing ideas outside of their own particular expertise and having the opportunity to participate.

Beyond sales, many elements underpin a successful brokerage operation — from financial management and insurer relationships, to operational issues like the use of office space and technology — that prospective owners need to recognize. Failing to internalize the needs of the whole means the individual is unlikely to be a successful partner.

Robert Kimball, president of Pearson Insurance in New Brunswick, has his own perspective on how to cultivate prospective partners' success. "What we have done, as what several smaller brokerages have done, is look to family for perpetuation," reports Kimball.

"In my own case, we suggested (our son) Robert look to work with a company for several years. He did this with Wawanesa for four years, doing almost all jobs there except claims. This gave Robert immediate credibility once he started in the (brokerage) office."

Anderson makes a further distinction about previous experience. "We often look for individuals who have around 10 years experience in the insurance business, of which at least five is as an insurance broker," he reports.

"Although people working for insurers have their own skills, often the longer they work for an insurer the more difficult it is for those additional skills and experience to translate into the broker end of the business," Anderson adds.

McNeil also comments on the importance of training and the long-term process of integrating a candidate into an organization.

"To ensure that the individual is successful and confident in their role, I also believe that to help them develop, they need to be surrounded with the right support, coaching, mentorship and ongoing continuous education", contends McNeil.

"One big factor I would suggest is involving any possible successor in decisions being made," advises Kim-



ball. "Even early on in the first years of employment, the involvement will give different perspectives to look at. It also shows the thought process and strengths or weaknesses in decision-making of the successor," he suggests.

In addition to mentoring and training within the brokerage, candidates may also tailor more structured education to their own needs, choosing among courses provided by brokers' associations, insurer programs or leadership sessions outside the industry.

Even once skills are identified and located, and development nurtured, financial and legal considerations are obstacles to be addressed.

For individuals moving from one brokerage to another to earn a potential partnership, honouring non-compete agreements adds to the initial investments a brokerage must make. That support is significant, so brokerage principals must be careful and confident in their selections; ultimately, there is a leap of faith for both candidates and incumbent principals as there can be no guarantees for results that will become apparent only after several years.

Prospective shareholders also may not have the necessary cash readily available. They may have RRSP funds or a house (often subject to a decent-sized mortgage) but little free capital.

A brokerage seriously looking for partners must be ready to accommodate

this lack of funds. At the same time, prospective principals must recognize that one must make some material sacrifices initially, before the benefits can be enjoyed.

A variety of restructuring options may be considered to allow for additional participants, and good legal and financial planning counsel is essential.

Some insurers, recognizing the value of brokerage independence to their own long-term returns, will not insist on equity or control of portfolios as a condition of loans.

Advice from objective industry experts, strategic planning consultants or even from friendly competitors can be also be invaluable.

Funds to facilitate buying into a brokerage are available from a number of sources, starting with banks and finance companies, but sometimes even with currently low interest rates, it can be hard to make this work. Other options may include insurance companies that can often tailor attractive terms to a specific situation.

Some insurers, recognizing the value of brokerage independence to their

own long-term returns, will not insist on equity or control of portfolios as a condition of loans.

Other more creative strategies may work for some, especially if existing owners are prepared to be patient.

"I have found the structuring of the transition is a multi-year effort in order to make the most financial benefit to all concerned," Kimball reports.

"In our particular recent approach, we were able to work out a deal internally and that is how we intend to proceed into the future," says Anderson "It is important that the existing brokerage owners have a commitment to remaining truly independent."

Taking a long-term view, and postponing short-term windfalls, allows the incumbent leadership to preserve not only the autonomous organization they have built, but also the customerfocused philosophy they have lived by.

Customers can share in marking the perpetuation of the organization and its culture.

"Insurance is a people business, and I believe that announcements should be made publicly with the customers," says RSA's McNeil. "New generational leadership changes should be viewed as a celebration to instill a renewed commitment of excellence to both internal and external stakeholders," he maintains.

Passion, perhaps, is the final essential ingredient, for old and new leaders alike.

"Often colleagues elsewhere in the industry have no idea how hard most successful insurance brokers work and think our job is soft and easy," reports Anderson. "Whereas, in fact, it is only very rewarding if you work hard, become absorbed in the business and make some 'luck' for yourself."

Independent insurance brokerages need infusions of new talent and the right individuals can take advantage of this, to the benefit of everyone concerned. With careful planning and patience, and, of course hard work, all parties can recoup their investments over time, while seeing their enterprise remain independent and continue to flourish.

Learning Childe Brokers responding to a recent survey avecant to the

Brokers responding to a recent survey suggest that they want more education on emerging insurance products, including those associated with residential overland flood, cyber risks and the sharing economy.



Peter Hohman President and Chief Executive Officer, Insurance Institute of Canada

With emerging fields of insurance — such as residential overland flood, cyber risk and the sharing economy — many brokers need to learn more about new coverage options and how to explain them to clients.

"Today the markets are so different from one another," says personal lines manager Lisa Vetter of Smith Petrie Carr & Scott Insurance Brokers Ltd. "Every company is coming up with different ways of handling issues and rating methods. More than ever, profitability strategies and coverages are so diverse that brokers are challenged to educate themselves to stay current and make sure their clients are properly covered."

The Insurance Institute of Canada, the educational arm of the property and casualty industry, recently polled approximately 600 brokers and general insurance agents across the country about their key challenges and education needs. These results were used to create CE OnDemand, a catalogue of one-hour, online courses designed to give brokers advanced product knowledge and more information about emerging trends.

STAYING CURRENT

In the survey, seven out of 10 broker respondents said their key challenge is "staying current with product knowledge." Almost 65% of polled brokers reported another key challenge is to ensure that "customers understand their risks and the coverages available to them."

Brokers are seeking highly relevant knowledge in two key areas, says Lisa Boniface, vice president of programs at the Insurance Institute of Canada.

"One is emerging trends in the field," Boniface says. "The other is product knowledge. We are trying to be nimble in creating new online CE courses, such as CE OnDemand, that delve into the trending topics. Also, when insurers introduce new products, we are able to integrate this into our (online) course content."

What are the trending topics for brokers?

Cyber risk, errors and omissions, business interruption, directors and officers (private and public), overland flooding, driverless cars and Uber (sharing economy) are the Top 7 topics of interest for brokers, based on the survey results.

What, specifically, do brokers want to know about these topics? Answers to this question vary across individual brokers/brokerages and their particular circumstances.

But, clearly, brokers benefit from CE in at least three general ways: it helps brokers understand new products and coverage options; it makes brokers aware of any potential coverage issues and it helps brokers communicate to their clients.

NEW COVERAGE

After the Calgary flooding in 2013, one of the largest claims events to date in Canadian history, insurance companies responded by introducing overland flood insurance in Canada. Coverages

19th Annual Breakfast for Cancer



Join us for our panel discussion with Bobbie Goldie and Dr. Uri Tabori



Speaker: Bobbie Goldie

When **Bobbie** was diagnosed with breast cancer on December 4th 2015 she began working tirelessly to continue to be a wife, mom, friend, aunt, cousin, employee, leader, and peer. As this is a struggle every day, she continued to expand her toolbox, and started a blog as her logical next step...to share her journey, goods days and bad...

On July 29th Bobbie was told that she was cancer free. She continues to pursue her career at Chubb Canada in Major Accounts and also keeps her focus and dedication on her family.



Speaker: Dr. Uri Tabori

Dr Uri Tabori is a talented scientist and clinician who has quickly emerged as a world leader in childhood cancer research. His work has greatly advanced our understanding of childhood brain tumours, especially in children with certain medical conditions that predispose them to cancer.

One of Dr Tabori's outstanding contributions include the role of protecting the ends of DNA strands in the biology of childhood brain tumours. Dr Tabori has also helped explain the

molecular basis of pediatric low-grade gliomas (PLGGs), the most common brain tumours in children. Dr Tabori's research acts as a springboard to use scientific knowledge to make a difference to cancer patients in the clinic.

Dr Tabori is committed to improving children's health worldwide. He is a strong advocate for Canadian cancer research, and generously volunteers his time and expertise with the Canadian Cancer Society and other research funding organizations. His outstanding potential has been recognized by prestigious awards and his research is having a direct impact on cancer care.

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are unique to each insurer, creating a need for brokers to advise their clients about their options.

"We have been inundated with overland water material, information and wordings over the last year," says broker Lorna Geldart of Birkett-Hassard Insurance Brokers Ltd.

"There is no common language for flood. They all call them different things. You've got 'overland water,' you've got 'enhanced water damage package' and you've got 'groundwater' — they are all different," Geldart reports.

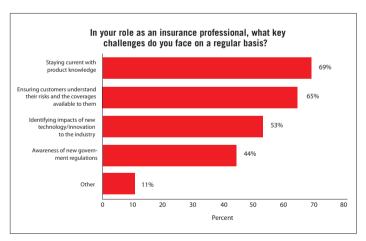
Continuing education helps brokers to keep track of the various new flood products and what they offer. And it is not just education for brokers.

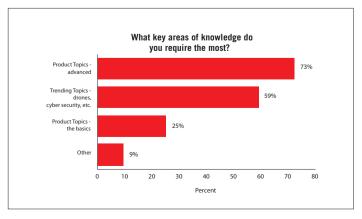
"Our job in insurance is really about educating our clients," emphasizes Toronto broker Brad Neal, a member of the Greater Toronto Area chapter of the Insurance Institute of Ontario.

COVERAGE ISSUES

Potential coverage gaps are coming to the fore as a result of sharing economies like Uber and Airbnb. For example, Uber's online, ride-sharing platform is raising a number of coverage questions for brokers, suggests Philomena Comerford, president and chief executive officer of Baird MacGregor Insurance Brokers LP.

Uber now has an insurance policy in Canada that covers its drivers for rides offered through Uber's online platform. But the drivers in question are still required to carry their own personal auto insurance policies to cover any claims unrelated to





Uber rides, and Uber drivers are also required to inform their personal auto insurers if driving for the company.

"If you want to narrow it down to what would be real present concerns for brokers, it would be whether or not the personal auto insurer would be agreeable to allowing the use of the vehicle for the purpose of accepting rides for compensation under the Uber platform," says Comerford.

"Whether or not there are any coverage gaps is another concern," she comments. "Uber X drivers will only be able to access basic accident benefits under the master Uber policy. There is no mechanism for providing enhanced accident benefits under the master Uber policy," she explains.

Lease agreements are another issue. For instance, there have been reports of Uber drivers renting cars and then carrying passengers for hire using their rental vehicles. The coverage of a claim involving the rental car of an Uber driver is not clear.

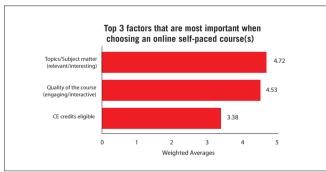
Continuing education helps brokers identify and understand these kinds of emerging issues and potential coverage gaps that may exist.

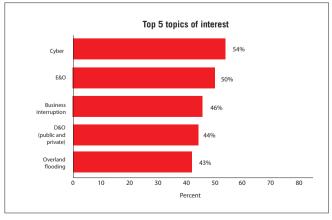
EXPLAINING TO CLIENTS

Cyber risk is an example of how brokers are looking for ways to explain new insurance solutions to clients.

"Even though cyber claims are prevalent in the paper and on the radio, I think a lot of customers still have some hesitation or lack of knowledge as to how it's going to directly affect their business," suggests Paul Martin, president and chief operating officer of RRJ Insurance Brokers Inc.

"I'm just not sure we have enough examples where we





can go into small and mid-sized businesses and say, 'This happened to a store just like yours. You have all these credit cards and information. Someone shut you down. Can you still do business?'"

Serge Solski of AdviseAware Risk Consulting has worked with many brokers on the issue of cyber risk. Solski, who acted as a subject matter expert for the CE OnDemand cyber course, says brokers need to keep several things in mind when talking to clients about cyber risk.

"Brokers need to figure out who is the best person to have the conversation with," Solski points out.

"Many times business leaders have a preconceived notion as to what cyber risk is. They may say to a broker, 'I think that's a great idea, but I want an IT person to validate that.' Brokers need to nip that in the bud and bring it back to the business leader, who truly understands the broader business risk of a cyber attack," he recommends.

Brokers also need to advise their clients on risk mitigation, rather than simply trying to transfer cyber risks through insurance. "It's not all about coverage," Solski says.

"Your client cannot effectively manage their cyber risk with coverage alone. There's just not enough they can buy to cover all of the potential losses they might suffer from a successful cyber attack," he explains.

DELIVERING KNOWLEDGE

Brokers are inundated with new product information. They need to understand new insurance solutions and how they might affect their clients. Brokers also need to synthesize all this information so that they can make it easy for their clients to understand what they are purchasing.

All of this information was used in developing the new CE OnDemand catalogue. Each an hour long, the courses are designed to provide busy brokers with the information they need quickly so that they can best serve their clients in a timely and well-informed manner. In addition, the courses take an applied approach to learning, based on the needs of brokers.

"The education of my staff is core and essential," says Mike Hordichuk, vice president of commercial insurance at Harvard Western.

"But are there more creative ways to invest in them? Am I going to pay two people mileage, plus a day of work, when they can take a one-hour, online CE course and get the same thing out of it?" Hordichuk asks.

The courses "use either real-life or scenario-based examples to illustrate the challenges or the types of conversations that brokers may be having with their clients," Boniface points out.

"Brokers are looking for concrete examples to help explain the value and types of coverage to clients in a sales situation. Having an in-depth knowledge of different claims scenarios is a real asset in creating a strong value proposition for the coverage," she continues.

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Fourth Annual Executive Forum Toronto

Customer Connections

Turning Insurance Outside-In was the theme of the fourth annual Executive Forum in Toronto. Speakers touted the benefits of creating a digital experience in multiple channels.

Angela Stelmakowich Editor

Greg Meckbach Associate Editor Some young insurance buyers are not sure what coverages may be relevant to them, suggested a speaker at the Executive Forum in Toronto on August 30, while a former Manulife official emphasized that getting a solution up and running now is more important than a slick front-end.

COVERAGE OPTIONS

Consumers, especially young people buying homes for the first time, are struggling to understand industry jargon, particularly terms and conditions of policies, suggested Daniel Shum, Deloitte's national insurance sector leader, at the recent Executive Forum.

Last year, Deloitte conducted a study in which people between the ages of 25 and 40 were interviewed, Shum told attendees at the fourth annual Executive Forum, held August 30 at the Sheraton Centre in Toronto.

First-time home buyers "are under a great deal of pressure and they are faced with this jargon that they didn't understand as first-time home buyers, first-time buyers of insurance," he reported. "So they are looking for someone to interpret that jargon or to speak in plain English to them."

Shum, a partner in Deloitte's financial services practice, showed videos of some of those interviews during the forum, produced by Insurance-Canada.ca Inc.

Deloitte asked survey participants "three broad

questions," he said. "What are your thoughts on insurance? How would you like your insurer to engage with you? What would you like from your insurer?"

Some respondents were "unsure of what products and services may be relevant to them," Shum said, noting that several questions came to respondents' minds. "'What makes sense to me? What coverage makes sense to have?'They weren't sure of that. They weren't able to easily find and compare different coverage options."

But amid these concerns, Shum suggested there is some good news.

"Many insurers are now addressing these [issues] and there are some emerging offerings in the marketplace that are very recent that really address a lot of these issues," he reported.

In its survey, Deloitte found some respondents were taken aback at some of the underwriting questions asked during the process of applying for insurance.

"When it came to the buy process, what we heard was, 'Why do you have to ask me all these questions?" Shum said. "As industry professionals, we all know why we have to ask those questions. It is important to them because it allows us to provide coverage, but they don't understand why those questions have to be asked."

New technologies are "disrupting the industry," Shum noted during his presentation.

"We are seeing what we are calling a perfect storm," he added. "Market forces that are shaping the industry over the next decade. Some of these forces will include consumers that are becoming more knowledgeable and more demanding, largely due to the availability of information at their fingertips."

CUSTOMER DATA

Some insurers have less data pertaining to risk — on their own insureds — than other organizations, suggested Mike Key, vice president of business development, global core insurance for software vendor SAP SE.

Historically, insurance companies have been operating in silos, with walls between "the life or the health or the property and casualty or the commercial institutions," Key said during his presentation, Preparing Insurers for the Digital Century.

"We're talking about slivers, we're talking about services and product capabilities in a very agile fashion," Key said of the future. "We're talking about partnerships with multiple channels that have information about our insureds."

He delivered his presentation August 30 at the fourth annual Executive Forum.

The overall theme of the event — produced by Insurance-Canada.ca Inc. and held at the Sheraton Centre — was Turning Insurance Outside-In.

"We have car companies that have more information about our insureds, we have commercial entities that have more information about our commercial coverages than we do," warned Key. "We have health care companies that have more information about our insureds than some of our health insurers."

Furthermore, the insurance companies themselves, "because of social third-party and available Internet of Things information, have that information about those insureds as well, to be able to drive our particular operations," he reported.

"We really believe there's going to be more change in the next 10 years than there have been in the last 30 years or even in the last 300 years," added Key. An industry that was centered on compensating someone for financial loss is dramatically changing, he suggested to forum attendees.

"We see the fundamental change in insurance moving from compensation for a final loss to having the information and the technology to be able to reduce the severity of that loss or to be able to prevent the loss itself," Key reported.

Three reasons driving the change are that more information is available than ever before, more technology is available and "there are competitors that have greater access to that information than sometimes insurance companies."

"You think your data management capabilities are important today? They are going to be absolutely critical in how you manage the data flow in and around your business in the future because of the vast volumes you are going to be having."

In addition, insurance providers, "because of social third-party and available Internet of Things information, have that information about those insureds as well, to be able to drive our particular operations," he said.

"Collaboration, cross-industry collaboration, we think is absolutely key," he emphasized to attendees. "We see having information, working with the car companies, working with the commercial entities, working with the health side of the business in order to be able to get that information is very, very key and vital to that digital environment of the future," Key emphasized.

"What customers can have today and what you can have today as an insurance industry is that customer-centric environment," he pointed out. "We think the customer is the centre of all future interactions, not the product. We think that services should be made available for the product capabilities," he added.

"When you've got the information and technology to be able to shape that, to be able to underwrite it, to be able to find products, to be able to rate the risk associated with that loss in real time or that insurable entity in real time, that dramatically changes things," Key said.

SPEED TRUMPS SHINY FRONT-END

Insurance providers who want to use technology to connect with customers need to move quickly, a speaker suggested at the recent Executive Forum.

"We are trying to create a digital experience, a digital dialogue, a digital relationship with our customers, and the key to it is the pace at which you do that, and how fast you can do it and the level of quality at which you do it," noted Joseph Cooper, a global technology executive and former executive vice president, global services and chief information officer at Manulife Financial.

Cooper delivered his presentation — Defining and Operationalizing an Effective Digital Strategy — August 30 at the Sheraton Centre in Toronto.

"Speed, I can tell you, is the Number 1 item," he said of technology services. "If you have great quality [but] you are there third, fourth or fifth, you are not going to be as effective at competing in the industry. If you are there first and you have a high-quality experience for your customers, that's where the winning formula is."

Cooper told attendees that 50% of Internet traffic is "driven" from mobile devices, while two-thirds of Canadians own smartphones.

"You think your data management capabilities are important today? They are going to be absolutely critical in how you manage the data flow in and around your business in the future because of the vast volumes you are going to be having," Cooper added at Executive Forum.

"To create a solid customer experience, it's not about having a shiny front-end," Cooper contended.





Events and Seminars Calendar

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"Surveys will show you that your best promoting customers will be the ones who experience your organization digitally in a very fluid and seamless manner. That puts pressure on having not only a very neat front-end, but a very robust and flexible back-end, and we all know being in this industry that has been the panacea for many years, but it is an absolute requirement," he added.

FUNDAMENTAL CHANGE

Workers of the future will expect the information technology systems at work to be up to the same standard as their consumer devices, a speaker at the recent Executive Forum suggested.

By 2025, 75% of the workforce is going to be digital natives, some of whom are now in their 30s, said Avi Greenfield, senior manager of product strategy for OpenText Exstream.

"They know from their tablets and their smartphones," Greenfield said of some workers. "They don't make the distinction between the technology that they use in their home lives and what they use at work," he pointed out.

Citing a Foresters survey from last year, Greenfield noted 89% of polled organizations identified digital transformation as a top priority for their companies.

"This isn't putting up a new website or upgrading a CRM (customer relationship management) system," he said. "This is a fundamental change in the way that carriers do business. This is a fundamental change in business models and the way that organizations need to interact with and really engage the new style of consumers and these new technologies."

Many of his company's customers are evolving to more of a cross-channel method — where multiple communications come from a single source of content that's channel-agnostic and presented appropriately for the channel engagement, he said. Ultimately, the goal is to provide an omni-channel experience.

"You want to enable consumers to pick up a transaction — start it in one channel and seamlessly pick it up in another channel as appropriate," he said.

A key area, Greenfield suggested to

the attendees, is content management.

"Having shared content between those channels is really essential in terms of providing a consistent experience, but it also takes your rethinking of that content into a context that is much more customer-aware," Greenfield said.

It really means rewriting content so it is in plain language and more easily understood, he noted. "That has a real impact on customer experience."

As well, Greenfield added, having options for multiple delivery methods that are preferred by customers will further contribute to "having a very impactful customer experience."

RELEVANCE OF GEEKS

Traditional insurance companies are "responding more slowly to the changing customer expectations and we are encumbered to some extent by legacy technology," suggested Ben Isotta-Riches, chief information officer of Aviva Canada, at the recent Executive Forum.

In his presentation, Going Digital: Cultural Disruption, Isotta-Riches described the characteristics of firms that he described as "born digital."

Such companies "are customer experience-centric, they are driving the consumer expectation across all sorts of industries, whether they are operating in insurance or not," he said. "They are highly agile, they are responsive to change and their technology organizations are leading and evolving. These are organizations where their (chief executive officer) is a software engineer in most cases."

Executive Forum was held August 30 at the Sheraton Centre in Toronto.

Isotta-Riches told attendees that six of the 12 richest people in the world are "geeks." Those six are Microsoft Corporation founder Bill Gates; Amazon founder Jeff Bezos; Oracle Corporation founder and executive chairman Larry Ellison; Facebook founder and CEO Mark Zuckerberg; and Google founders Larry Page and Sergey Brin.

"Geeks have suddenly reached a point where they have massive relevance," Isotta-Riches said. "Being able to produce innovative products is driven by diversity of people, cultures and ideas."

PERSUASIVE SELLING

Companies selling insurance online to consumers could take a few lessons from Aristotle, a speaker suggested at Executive Forum.

"To get anyone to do anything, we have to capture their attention," said Brian Cugleman, senior scientist and director at Alterspark. "You have to arrest attention and then you have to get to someone's mind so that they have a cognitive understanding, and when you sell insurance, it can be a bit tough sometimes to get people to understand abstract things and a good number of us are very concrete in our thinking, and others are very abstract."

Cugleman made his comments during an Executive Forum presentation, Digital Psychology Evoking Emotion to Sell Insurance.

Cugleman's co-presenter was Andrew Lo, chief operating officer at Kanetix Ltd. Lo said Kanetix conducted a research project to identify best practices in auto insurance customer acquisition.

"We looked at the content of multiple sites in terms of their auto insurance conversions" he pointed out. "We looked for persuasive design features."

During his presentation, Lo cited as examples the belairdirect and Progressive auto insurance websites, explaining the psychological impact of their mascots. "The psychology of a speaker who is credible and can persuade someone is similar to a brand that is credible and can persuade someone, which is also similar to a technology or a website that can persuade someone," Cugleman said.

"If we have people who don't care about something, your deal is off the table," he said. "It's not an option. Decision support is extremely important, so we can have people who are motivated, but along comes analysis paralysis and they can't make up their mind."

Aristotle discussed methods of persuading people, Cugleman told attendees, suggesting that Aristotle's methods "are just as relevant" now "and have been studied in depth."

MOVES & VIEWS

UPCOMING EVENTS: FOR A COMPLETE LIST VISIT

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Rob Wesseling [1] becomes president and chief executive officer of The Co-operators Group Limited as of December 1, 2016, the Guelph, Ontariobased carrier reports. Currently executive vice president of property and casualty operations for The Co-operators and chief operating officer of the Sovereign General Insurance Company, Wesseling will replace Kathy Bardswick, who is retiring. Holding a Chartered Insurance Professional designation, he is also an acting member of the International Co-operative and Mutual Insurance Federation's Board of Directors.

Managing general agent ENCON Group Inc. has named David Cook [2a] as its new president. Come November 1, Cook, chief underwriting officer (CUO), will succeed Jean Laurin [2b], who is retiring after more than 30 years of service to the company. Cook joined ENCON in 1992 and was appointed vice president and chief actuary of the underwriting management division in 2002, senior vice president responsible for underwriting review of large accounts and provision of application handling and policy issuance services to brokers in 2007, CUO in 2016 and





managing director in 2016. ENCON is part of Schinnerer Group, the parent firm Marsh & McLennan Companies Inc. reports in a securities filing.

Mark Day [3], executive director of risk management and insurance for the Government of Alberta's Treasury Board and Finance, received the Donald M. Stuart Award — presented annually by the RIMS Ontario Chapter — during the RIMS Canada Conference. Day is also a member of Alberta's Assistant Deputy Minister Recovery Task Force, which has been instrumental in guiding the province through a number of recent natural disasters, and was the





catalyst for the University of Alberta's decision to offer the CRM (Canadian Risk Management) course.

Jeff Setterington [4] joined Evolution Insurance as its executive vice president on September 6. In his new role, Setterington will focus on growth, notes a statement from the managing general agent, wholesaler and risk consultant operating across all Canadian provinces.

SCM Insurance
Services has opened
a Chicago office,
appointing Scott Goodreau
[5a] as chief operating officer
— USA. The appointment of
Goodreau, who previously





led sales and marketing for Chicago-based Hub International, was described as the "first step" towards taking SCM's services to the United States. "Initially, our focus will be targeted at two fronts: third-party administration and claims adjusting services," Bob Fitzgerald [5b], chief executive officer of SCM Insurance Services, says.

Marsh has appointed Christopher Schaper [6] as chief executive officer of the company's managing general agent (MGA) business, the Schinnerer Group. Schaper will focus on the development and advancement of Marsh's existing MGA businesses in Canada and the United

MOVES & VIEWS











States, as well as oversee the development of its MGA business internationally. Schinnerer Group is comprised of Victor O. Schinnerer & Co. in the U.S. and ENCON Group Inc. in Canada, reports parent company Marsh & McLennan Companies Inc.

Lorie Phair [7] is the Canadian Broker Network's (CBN) new managing director. Most recently serving as chief executive officer of ingenie Canada, Phair has held leadership and board positions in both the insurance industry and in the not-for-profit sector, notes a statement from CBN, an independent commercial insurance broker network in Canada.

Global trade credit insurer Compagnie Française d'Assurance pour le Commerce Extérieur (Coface) reports that Sonia Luengo [8] will lead the Canadian team of risk underwriters, taking on the role of Canada risk underwriting manager, North America Region Team. Luengo previously served in senior positions at financial institutions and insurance companies in Canada and Spain, including Scotiabank, Genworth Mortgage Insurance and Euler Hermes.

Vericlaim Canada, a subsidiary of Sedgwick Claims Management Services, Inc. and national

provider of loss adjusting and claims management solutions, has acquired the assets of independent adjusting firm RGM Claims Services. Inc. RGM specializes in municipal, automobile, product and environmental liability, as well as property, casualty and cargo losses. In addition, Ross Macdonald and his colleagues have joined Vericlaim Canada.

Christopher Harness, vice president of solutions delivery at Northbridge Financial Corporation, is the newest member of the Centre for Study of Insurance Operations' (CSIO) Board of Directors. Harness replaces Andrew Wood, Northbridge's chief information officer, on the CSIO board.

Peter Doublard [11] brings three decades of experience in the insurance industry to his new post as senior adjuster in Kernaghan Adjusters Ltd.'s Hamilton,

Ontario office, Doublard specializes in large-loss commercial and personal lines property, including condo claims, builders risk and specialty losses, notes a Kernaghan Adjusters bulletin. Previous employers include Granite Claims Solutions and SCM Canada. his LinkedIn profile adds.

Sedgwick and its subsidiary ✓ Vericlaim, a global provider of loss adjusting and claims management solutions, have announced further Canadian expansion with the opening of a new office in Calgary. "We are moving quickly to expand our national footprint and we are recruiting the best experts in the industry in each region/territory to ensure we provide the service and quality our customers deserve," says Mike Holden president of Sedgwick and Vericlaim Canada. As such, Monte Ponton has joined the team as executive general adjuster. Ponton will work out of the new Calgary office and manage large losses, catastrophic and complex cases in Western Canada. He has 37 years of experience as a loss adjuster. =



GALLERY - 2016 RIMS CANADA CONFERENCE CALGARY

See all photos from this event at www.canadianunderwriter.ca/gallery



See all photos from this event at www.canadianunderwriter.ca/gallery



SCM Insurance Services hosted its annual RIMS Canada Conference 'Customer Appreciation' party at the beautiful Teatro Ristorante in Calgary on September 10. Guests enjoyed a wide selection of cocktails and fine hors d'oeuvres.

































See all photos from this event at www.canadianunderwriter.ca/gallerv



FirstOnSite Restoration hosted their annual RIMS Canada Conference 'Meet & Greet' cocktail reception on September 11 at Craft Beer Market in downtown Calgary. Conference guests were treated to great food and cocktails - including beer of course.























APPOINTMENT



Nino Calabrese

Xpera, Canada's leading provider of Risk Mitigation & Investigation is proud to announce that Nino Calabrese has rejoined the firm as Director of Investigations, Toronto. Mr. Calabrese, who was with Xpera since 1987 under the company's former name of CKR Global, has returned after a brief sabbatical to oversee day to day operations in Xpera's Toronto office.

A versatile professional, Mr. Calabrese brings over thirty years of experience in both corporate and insurance claims investigations with a reputation for providing exceptional litigation support to the insurance and legal community. A licensed investigator since 1984, Mr. Calabrese is the first Canadian to receive the prestigious Dennis A. Noggle Award which is given based upon several factors including response time, method and quality of reporting, flexibility, and consistent excellence and loyalty.

"Xpera is proud to welcome Nino Calabrese back to our team," states Paul McParlan, Vice President for Xpera Risk Mitigation & Investigation. "Nino's breadth of experience and extensive expertise help makes our team stronger and affirms Xpera's position as a leader in our industry."

Nino Calabrese is excited to bring his knowledge and skills back to Xpera Risk Mitigation & Investigation. He can be contacted at nino.calabrese@xpera.ca or by telephone at 416 449 8677.



xpera.ca



As a warm-up for the 2016 RIMS Canada Conference, Calgary, Crawford and Company (Canada) Inc. held their annual RIMS Canada Conference dinner party on September 10 at Market Restaurant. Invited guests enjoyed wonderful food, beverages and engaging industry conversations.

























The William H. McGannon Foundation held a special celebration during the 2016 RIMS Canada Conference, Calgary, in honor of the foundation's founding father, William H. McGannon, as well as to recognize and thank the foundation's donors and supporters. The event was held at The Belvedere in downtown Calgary. Among the attendees were students from the 2016 Student Involvement Program provided by the McGannon Foundation. On behalf of RIMS, RIMS President Julie Pemberton and RIMS Chief Executive Officer Mary Roth presented the McGannon Foundation with a donation of \$45,000.





See all photos from this event at www.canadianunderwriter.ca/gallery





More than 70 companies and organizations providing products and services to the risk management community filled the Telus Convention Centre Exhibit Hall at the 2016 RIMS Canada Conference, Calgary, held September 11 to 14.

















Continued on Page 80...

...Continued from Page 79... Exhibit Hall at the 2016 RIMS Canada Conference, Calgary.





GALLERY - 2016 RIMS CANADA CONFERENCE CALGARY - DONALD M. STUART AWARD



ORIMS president Christina Gardiner presented the Donald M. Stuart Award to Mark Day, executive director of risk management and insurance for the Government of Alberta's Treasury Board and Finance, at the 2016 RIMS Canada Conference, Calgary on September 13.

Mark Day, executive director of risk management and insurance for the Government of Alberta's Treasury Board and Finance, has had his many years of service and dedication recognized, becoming the latest recipient of the Donald M. Stuart Award.

Presented during the awards luncheon on September 13 at the 2016 RIMS Canada Conference in Calgary, Day was bestowed what is widely regarded as Canada's highest risk management honour, reports RIMS, the risk management society.

The award, given out annually since 1979 by the RIMS Ontario Chapter (ORIMS), is meant to recognize those who have made outstanding contributions in the risk management profession and advancing risk management in Canada.

Day is currently responsible for the overall delivery of risk management, risk control, risk financing and risk identification to all departments of the Alberta government, most provincial corporations, all of its committees, public and elected officials and its thousands of volunteers, notes the RIMS statement.

Day is an integral member of Alberta's Assistant Deputy Minister Recovery Task Force, which has been instrumental in guiding the province through a number of recent natural disasters.

He has also initiated a quarterly newsletter that provides an update on the latest risks having an impact on the provincial government and the region, thereby helping to promote a risk-aware culture across the governmental enterprise.

Beyond his work-related accomplishments, Day has a long history of volunteering within the risk management community.

Among other things, he has served as president of the Northern Alberta RIMS Chapter on two occasions, held several chapter officer and RIMS Canada Council positions, been a member of the National Education Sub-Committee of the Canadian Risk Management Council, was the catalyst for the University of Alberta's decision to offer the CRM course, and has shared his considerable expertise as a conference speaker, educator. author and mentor.

"Just like others did for me, I found it to be crucially important, and perhaps even my responsibility, to give back to the risk management community," Day says in the

RIMS statement.

Humbled to be recognized "for a lifetime of work that I have felt so passionate about," he adds that "the value of the risk management function continues to gain traction and it has been exciting to be a part of this momentum."

ORIMS president Christina Gardiner notes that "to keep the risk management profession vibrant and integral to organizational success, we rely on industry leaders, like Mark Day, to generously share their invaluable career experiences."

Day, Gardiner adds, "has had a profound impact on the careers of countless practitioners and has demonstrated a true commitment to the future of risk management in Canada."

Also during the awards ceremony, David Chipp, project consultant of people performance and culture for Halifax-based Efficiency Nova Scotia, was announced as the recipient of the Fred H. Bossons Award.

The award recognizes the risk management professional who earns the highest marks on the three courses required to receive the CRM designation.

See all photos from this event at www.canadianunderwriter.ca/gallery

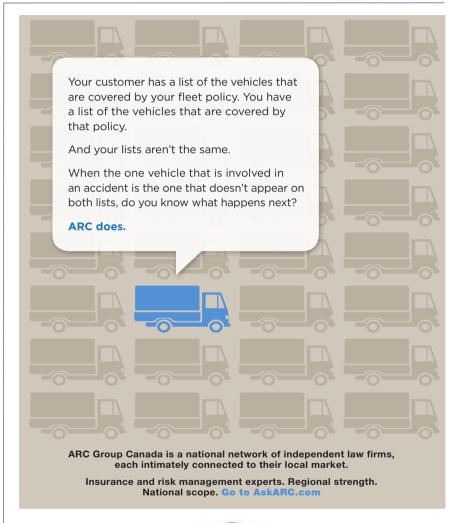
The 2016 RIMS Canada Conference 'Resilience' was held in Calgary, from September 11-14 – Local Organizing Committee Chairs Phil Corbeil and Janet Stein welcomed all delegates to the conference. The Conference Program included a robust line-up over the span of the event including keynote address on resilience, by Calgary Mayor Naheed Nenshi and opening plenary session with Neil Harrison from Aon and Alan S. Kurth from Marsh, shared their 9/11 experience with resilience, recovery, and moving onward, moderated by Janua Makomaski













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