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## Insurance Councils Bulletin

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October 2004  
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Privacy Legislation

Administration

Industry Notice Section

Hail Section

Life and Accident & Sickness  
Section

General Section

Disciplinary Section

Bylaw Amendments Section

Contact Section

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Insurance Councils of  
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310 – 2631 – 28<sup>th</sup> Avenue  
Regina SK S4S 6X3

[www.insurancecouncils.sk.ca](http://www.insurancecouncils.sk.ca)

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# Insurance Councils of Saskatchewan

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## Electronic Notices

Council will commence providing notice of bylaw amendments, bulletins, forums and industry warnings by email whenever possible.

Licensees are asked to verify their email address on the Annual Reporting Form to ensure it is current and to notify the Council office of any changes throughout the year.

Any publication distributed by email will also be posted on the web site and available at the Council office upon request.

## Privacy Legislation

### Council Privacy Guidelines

The Insurance Councils of Saskatchewan "Councils" are exempt from complying with the Canada's Personal Information Protection and Electronic Documents Act "PIPEDA", however, we have voluntarily developed guidelines to protect your privacy and the confidentiality of your personal information.

The licence forms will be amended over the next few months to include a consent related to the collection, use and disclosure of personal information as it relates to licensing and disciplinary actions.

The Privacy Officer for the Insurance Councils of Saskatchewan is Annette Graff.

The Privacy Officer for Compliance related matters is John Waugh.

Both Privacy Officers can be reached at:

Insurance Councils of Saskatchewan  
310 – 2631 – 28<sup>th</sup> Avenue  
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Tel: 306.347.0862  
Fax: 306.569.3018

### Handling Confidential Information

On January 1, 2004 Saskatchewan adopted the Federal Personal Information Protection and Electronic Documents Act "PIPEDA".

The PIPEDA legislation is important to insurance agents in relation to the collection, use and disclosure of personal information of insurance clients. Personal information can be a persons name and address and certainly encompasses any information about a client's insurance business.

Agents must be aware that when they leave the employ of one insurer or insurance agency, they cannot use any of the information of the insurer or agency's clients in the marketing of new insurance products to those clients. The reason for this is that the information was collected from the client for the use of the agency or the insurance company. Therefore, unless the agent has consent from the client to use this information, they cannot do so.

If Council becomes aware of the misuse of personal information, the matter will be referred to the Privacy Commissioner in the

Province of Saskatchewan for whatever action deemed appropriate. Council, as well, will take action with respect to a breach of the confidentiality requirements under the Council bylaws.

To obtain further information about PIPEDA, please visit the Privacy Commissioner web site at [www.privcom.gc.ca](http://www.privcom.gc.ca).

## Administration Section

### Confirmation of Licensing Status

Insurance companies are routinely directed to the Council web site for the current licence status of agents.

Council, however, is aware that many insurance companies continue to rely on a receipt for payment of licence fees as evidence of an agent's current licence status.

Companies are cautioned that relying on a receipt as evidence of an active licence will not protect them from penalty under Section 444 of The Saskatchewan Insurance Act which prohibits payment to unlicensed persons.

The Saskatchewan Insurance Act, Section 444, states companies can face up to a \$1M fine and individuals \$500,000 fine for a violation of the Act.

One of the ways an insurance company can be certain of an agent's licence status is to visit the Council web site which contains a licensee search that is updated daily. The link to this feature is [www.insurancecouncils.sk.ca/search/searchhome.htm](http://www.insurancecouncils.sk.ca/search/searchhome.htm).

If you have any questions, please contact the Council.

### Errors & Omissions Insurance

Council would like to remind brokers and agents that Errors & Omissions "E & O" insurance is mandatory for the following licence types: All Classes Agencies, All Classes Direct Writers, Life and/or A & S Agents, Travel Agencies, Hail Agencies and Hail Agents.

Licensees must ensure they maintain E & O insurance at all times to avoid licence suspension. In addition, the E & O policy must be underwritten by a licensed Canadian insurer.

A copy of the E & O Certificate of Insurance must be attached to the Annual Licence Reporting Form.

Licensees are not required to give Council a copy of the E & O certificate at the specific time the policy is renewed.

### Annual Reporting

Licensees are reminded their licence is issued on a continuous basis subject to filing an annual report. If the annual report is not filed by the reporting date shown on the licence, the licence will remain valid but is subject to a late filing fee of 50% of the licence fee. This fee cannot be waived.

If the annual report, licence fee and late filing fee are not received within 30 days, the licence will be cancelled and a new application must be filed with Council.

### Payment of Fees

The Insurance Councils are now authorized to accept the payment of licence fees by credit or debit card.

It is anticipated that licence forms will be amended effective December 1, 2004, to reflect this payment option.

### Audited Financial Statement

The December 31, 2003 Audited Financial Statement is available on the Council web site.

## Industry Notice Warnings

### Unlicensed Brokers

Broker Force Insurance Inc. of Toronto; and Golf Marketing World Wide L.L.C. from Norwalk, Connecticut are not licensed to transact insurance business in Saskatchewan.

Council requests that any broker who is aware of these entities marketing insurance in Saskatchewan contact John Waugh, Director of Compliance.

### Stewart charged in U.S.

*Excerpt from Thompson's World Insurance News, January 2004*

A Class Action lawsuit alleging insurance fraud has been filed in California against a Richmond Hill, Ontario resident named as Ian Stewart and other parties including entities known as Surplus Lines Inc., Heritage Agency and United Restaurant Insurance Services. The action, filed in Santa Barbara Superior Court by local law firm Foley & Bezek, seeks to recover premiums paid by bar and restaurant owners for liability policies alleged to have been issued fraudulently.

### Lloyd's seeks injunction in Ontario

*(Lloyd's press release dated September 3, 2004)*

The Ontario Superior Court has granted an injunction to The Society of Lloyd's and Nicholas Smith, Attorney in Fact in Canada for Lloyd's Underwriters against Ian

Stuart Smith also known as Ian Stuart, Ian Stewart, Ian Smith, John Harris, John Harrington, Surplus Lines Inc., Heritage International Inc., KRL Enterprises Inc., KRL Enterprises Ltd. and John Harris in Court File No. 04-CV-267436CM1. The order provides, in part, as follows:

"This court orders that the defendants cease and desist from in any manner, directly or indirectly, purporting to bind policies of insurance with Lloyd's Underwriters or a Lloyd's syndicate(s) pending further order of this court. For purposes hereof, the defendant Ian Stuart shall not hold himself out as anyone other than Ian Stuart pending further order of this court."

In July 2002, Lloyd's published notice that certain of the above individuals and entities have no authority from Lloyd's to represent Lloyd's, to act on behalf or to directly place insurance in the Lloyd's insurance market. The notice also referred to an Order of the Court of Queen's Bench in Saskatoon that Ian Stuart Smith, or any corporation of which he is the directing mind, be prohibited from holding himself out as acting for any insurance company unless he has specific written authority from such company to do so.

Subsequent to that notice, Lloyd's has been advised that some parties in Canada and the United States have or may have purchased purported insurance products on the basis of representations made by these individuals and entities about their authority from Lloyd's or Lloyd's syndicates. Lloyd's has also drawn this matter to the attention of insurance regulators in Canada and the United States, including the Insurance Council of Saskatchewan, the Registered Insurance Brokers of Ontario, the Financial Services Commission of Ontario, the New York Department of Insurance, the California Department of Insurance,

and the United States Department of Justice.

## Beware of Scams

The Office of the Superintendent of Financial Institutions provides various articles on its web site including a "Beware of Scams" link to various organizations such as the RCMP, Phonebusters, Canada Customs & Revenue Agency, Securities Commission and the Financial Services Commission of Ontario.

To view these sites, please visit OSFI's web site at [www.osfi-bsif.gc.ca](http://www.osfi-bsif.gc.ca).

## Hail Section

### Hail Adjuster Licence

The Hail Insurance Council of Saskatchewan commenced licensing Hail Adjusters effective January 1, 2003.

Council has issued the following number of licenses as of September 1, 2004:

Hail Adjusting Firms	4
Hail Adjuster Reps	181
Hail Adjuster	126

Hail Adjusters are reminded their first reporting period for complying with the continuing education requirement of six credit hours, will be June 1, 2005.

Licensees will be asked to disclose the name of the seminar(s) or workshop(s) they have attended on their annual reporting form and to retain a certificate of attendance for possible audit purposes.

## Life and Accident & Sickness Section

### Life Open Forum

#### Saskatoon November 22

Saskatoon Travelodge  
106 Circle Drive West  
(Viscount Vanguard Room)  
1:30 p.m. – 3:00 p.m.

#### Regina November 24

West Harvest Inn  
4025 Albert Street South  
(Emerald A Room)  
1:30 p.m. – 3:00 p.m.

**No Registration Required**  
**1.5 credit hours allowed**

### Life Licence Qualification Program (LLQP)

*(Includes Accident & Sickness Only Licensees)*

The LLQP was implemented January 1, 2003 and is now mandatory for all new applicants and those who allowed their licenses to lapse for a certain period of time.

The LLQP exam statistics for the period January 1, 2004 – September 1, 2004 are:

#### Full LLQP

*Pass 85 Fail 21 Pass Ratio of 80%*

#### Restricted LLQP (Part A)

*Pass 36 Fail 18 Pass ratio of 67%*

#### A & S LLQP

*Pass 23 Fail 6 Pass ratio of 79%*

### Level 2 Education Requirements

Currently 210 licensees who were licensed prior to January 1, 2003 are required to comply with the Life Level 2 education requirements.

Individuals who fail to comply with the Level 2 education requirement by their deadline date will have their Life including A & S licence cancelled.

In the event the licence is cancelled, the applicant can only qualify for re-licensing if they successfully complete the Full LLQP course and provincial examination.

## Supervision Requirements

All licensees (Life Level 1, Life Level 2 and Accident & Sickness) who have less than 2 years licensed experience or are subject to supervision requirements must within ten days of taking an application for insurance ensure a Supervision Certificate approved by Council is completed and signed.

The certificate must be signed by a Saskatchewan licensed Level 2 licensee having at least three years licensed experience and who is not subject to licence restrictions for the insurance product he or she is accepting responsibility. A copy of the Supervision Certificate must be retained in the applicant's file.

## Disclosure Statements and the Privacy Legislation

The Personal Information Protection and Electronic Documents Act 'hereinafter referred to as PIPEDA' became law in Canada on January 1, 2004.

PIPEDA applies to all commercial transactions and will apply to disclosure documents such as the Disclosure Statement "DS".

Council contacted the Privacy Commissioner to determine if the Life Council Bylaws, with respect to the DS, exempt a licensee from compliance with PIPEDA.

The Privacy Commissioner ruled that licensees are not exempt from PIPEDA. The Privacy Commissioner's opinion is that in the

absence of client consent, a licensee who sends the DS to either the existing or the new insurer would be in contravention of PIPEDA.

The opinion provided to Council by the Privacy Commissioner resulted in the following direction to licensees effective January 1, 2004:

1. Council will expect proper completion of the DS. A copy of the DS is to be provided to the client; and
2. The client must be informed of their right to decline the DS to be disclosed to either the existing or the new insurer; and
3. A licensee must obtain written consent from the client authorizing the release of DS information prior to sending the form to the existing or the new insurer; or
4. A licensee should obtain written instructions from a client who declines the release of DS information to an existing or a new insurer.

A suggested Consent Form can be found on the Council web site.

## General Section

### Accident & Sickness Review

The General Council formed a committee to review the A & S component of existing study material. The current licence requirements allow a Level 1 broker to sell a wide variety of products from a tenant package with a maximum loss exposure of \$15,000 to a travel policy with a potential loss exposure of over \$1M with little or no A & S training.

The committee determined there are many A & S related products sold by general brokers that are not adequately covered in any of the

existing general insurance licence qualification courses.

The committee identified these products to include travel insurance, accident policies related to farms, student and sports events as well as a number of not for profit sector exposures. The coverage is often included in policies provided to towns, fire departments, health districts and sports organizations.

The committee approached the industry course providers (Insurance Brokers Association of Canada and Insurance Institute of Canada) to explore how the current qualification materials could be enhanced.

Council will keep licensees informed about changes as they are implemented.

## Level Licensing Initiative

The level licensing structure will be amended to three levels when the new General Bylaws are introduced. The target date for implementation is January 1, 2005.

## Travel Section

### Travel Qualifying Examination

New travel only agents or individuals who have allowed their licenses to become inactive for more than thirty days are required to successfully complete a qualifying examination and a bylaw examination prior to applying for a licence.

Council has posted pertinent sections of the study material on the web site to assist licensees with preparing for the Travel Bylaw Examination. Individuals are encouraged to obtain other industry study material as well.

## Disciplinary Section

### May 1, 2003 - September 1, 2004

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

#### Cheating on examination

An applicant writing an entrance examination for the General Insurance Council was found to have taken unauthorized material into the classroom in contravention of examination protocol.

After investigations, the Council determined that the applicant will be prohibited from writing an entrance examination for a period of three years.

The applicant will be required to appear before a Suitability Review Committee of Council upon future application for licensing.

#### Letters of Warning

**Barbara Lynn Seymour** representing Cumis Life Insurance Company received a letter of warning for failing to provide completed Disclosure Statements within three working days of replacing an existing policy of insurance.

#### Disciplinary Hearing

**Robin Bruce Adair** representing The Maritime Life Assurance Company, had his Life and Accident & Sickness Licence, which was suspended, permanently cancelled.

Mr. Adair was found to have exerted undue influence over an elderly client when he arranged to have himself appointed as Executor of her Will that placed the bulk of her estate within his complete control. As well, he arranged loans from the

client in the amount of \$200,000, the loans being secured by Bearer Debentures, issued by a corporation, incorporated and controlled by him. He as well was found to have manipulated the client's insurance portfolio in a manner that was not in the client's interests.

A court order obtained by a relative of the client has removed Mr. Adair as Executor and set aside the Will.

**William Edwin Broad** representing The Great-West Life Assurance Company had his Life and Accident & Sickness Licence, which was suspended, permanently cancelled.

Mr. Broad, in his dealings with one client of The Great-West Life Assurance Company, requested loans from the client's policies without the knowledge or consent of the client. He obtained possession of the cheques from The Great-West Life Assurance Company, and deposited these into his personal account.

The total amount of money obtained by Mr. Broad from the client was \$17,400.

**Glenn James Galloway** representing Combined Insurance Company of America, had his Accident & Sickness Licence suspended for a period of 45 days.

Mr. Galloway was found to have signed a client's name on an application of insurance without the knowledge or consent of the client.

The application was signed by the client, but there was one section that Mr. Galloway mistakenly believed required a client's signature and when he was not able to obtain it quickly, signed the client's name without the client's knowledge.

**Thomas Aloisius Lipp** representing The Equitable Life Insurance Company of Canada had

his Life and Accident & Sickness Licence suspended for 30 days.

Mr. Lipp was found to have allowed his Errors & omissions Insurance to lapse. He as well failed to immediately advise Council of the non-renewal of his Errors & Omissions Insurance.

**Paul Reginald Marsh** representing The Maritime Life Assurance Company, had his Life and Accident & Sickness Licence, which was suspended, permanently cancelled.

Mr. Marsh requested loans from four policyholder's policies without the knowledge or consent of the clients. He obtained possession of the cheques from The Maritime Life Assurance Company, and deposited these into his personal account.

The total amount of money obtained by Mr. Marsh from the four clients was \$90,920.28.

Mr. Marsh as well created documents that purported to show certain funds were on deposit with Transamerica Life Canada for one of the policyholders, when in fact they were not.

**Jacqueline Anne Senko** representing Combined Insurance Company of America, had her Life and Accident & Sickness Licence suspended for a period of 45 days.

Ms. Senko was found to have signed a client's name without the knowledge or consent of the client.

The client had signed the application but had done so in the wrong place. Ms. Senko then re-signed the application in order to expedite the issuance of the policy.

**Rande John Treen** representing Industrial Alliance-Pacific Life Insurance Company had his Life and Accident & Sickness Licence, which was suspended, permanently cancelled.

Mr. Treen had requested loans from two clients' policies without the knowledge or consent of the clients. He obtained possession of the cheques from The Great-West Life Assurance Company, and then deposited these into his personal account.

The total amount of money obtained by Mr. Treen from the two clients was \$38,922.03.

### **Roderick Byron Van Slyck**

representing Heritage Insurance Ltd., as part of a joint submission made to a Disciplinary Committee, plead guilty to failing to clearly disclose in writing to an insured, the amount of additional fee(s) charged and the reason for the additional fee(s). The additional fees that were the subject of the hearing were charged between January 1, 1999 and December 31, 2003.

The joint submission that was agreed to between the investigation committee of the General Insurance Council and Mr. Van Slyck, and contains the following provisions; that he repay \$23,318 in total to 18 clients; that he surrender his licence for cancellation on or before December 31, 2004 and that he will not be eligible for a licence for a period of 90 days thereafter; that during the time he remains licensed he must report to Council any additional fees charged to clients in a prescribed form and; that he pay \$500 toward the costs of the hearing.

## **Bylaw Amendments Section**

### **May 1, 2003 – October 1, 2004**

It is the responsibility of a licensee to remain in full compliance with the bylaws. The following sections have been added, amended or deleted.

A current version of the bylaws can be obtained from the Council office or by visiting the Council web site.

### **Hail Council Bylaws**

Section 5 deleted

### **General Council Bylaws**

Section 12 deleted

Section 27 (n) amended

### **Life Council Bylaws**

Section 5 amended

### **Adjuster Bylaws**

Section 10 deleted

## **Contact Section**

### **Council Staff**

Ernie Gaschler, Administrator  
ernie.gaschler@ibas.sk.ca

Penny Barlow, Licensing Officer/  
Compliance Assistant  
penny.barlow@ibas.sk.ca

Annette Graff, Administrative Assistant  
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Diane Lindsay, Licensing Officer/  
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Cindy Swales, Licensing Officer  
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John Waugh, Director of Compliance  
john.waugh@ibas.sk.ca

### **Contact Information**

Licensing (306) 347-0862  
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Fax (306) 569-3018

Insurance Councils of Saskatchewan  
310 - 2631 – 28<sup>th</sup> Avenue  
Regina SK S4S 6X3

## **Council Members**

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

### **General Council**

[www.insurancecouncils.sk.ca/gen\\_council.htm](http://www.insurancecouncils.sk.ca/gen_council.htm)

### **Hail Council**

[www.insurancecouncils.sk.ca/hail\\_council.htm](http://www.insurancecouncils.sk.ca/hail_council.htm)

### **Life Council**

[www.insurancecouncils.sk.ca/life\\_council.htm](http://www.insurancecouncils.sk.ca/life_council.htm)

## **Exam and Study Material Section**

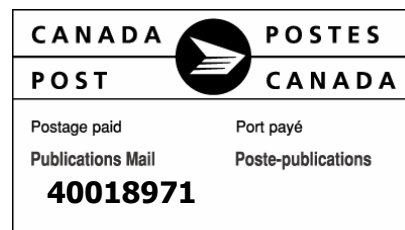
Council licence examinations are administered through the Insurance Brokers' Association of Saskatchewan.

Ingried Stroeder, Examination Coordinator

Exam scheduling (306) 525-5900

**RETURN TO**

**Insurance Councils of Saskatchewan  
310 – 2631 – 28<sup>th</sup> Avenue  
Regina SK S4S 6X3**



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