

PULSE



THE HEARTBEAT OF RISK MANAGEMENT, JUNE 2013

President’s Message

■ **By: Suzanne M. Barrett**, RF, FCIS, P. Adm. - ORIMS President and PDAC Member (RIMS)



On May 15th, 2013, at the 53rd Annual General Meeting, I had the great honour to assume the ORIMS Presidency for the 2013-2014 year after working under the past four Presidents — Steve Pottle, April Savchuk, Roman Parzei and Dave Beal. I would like to extend my sincere congratulations to Dave Beal, our former President, for his leadership and look forward to Dave’s continued support to the ORIMS Board. I also wish to thank Marie Winger and Paul Bains, the Outgoing

Directors, for all their dedication and hard work as volunteers on the ORIMS Board. I would like to take this opportunity to welcome our ORIMS Board of Directors for 2013-2014, the 5th largest chapter within RIMS, as elected by the Membership:

- Suzanne M. Barrett** President
- Paul Provis** Vice-President
- Mark Cosgrove** Treasurer
- Agata Jamroz** Corporate Secretary
- Julian Valeri** Education
- Tina Gardiner** Professional Development
- Mark Morency** Communications
- Shannon Devane** Social Programs
- Sandra Alwazani** Public Relations/ External Affairs
- Glenn Morato** Webmaster
- Joe Costello** Membership
- David Beal** Past President

To service the membership, the Board of Directors will be focusing on the following initiatives during the ensuing year:

- Strategic Planning to foster sound governance practices in line with changes to RIMS globally, proposed applicable legislation and continue to build upon a better and enhanced chapter;
- Review and implement applicable RIMS structural model changes to ORIMS By-laws;
- Continue to build our already winning publication, the quarterly PULSE, having been issued the prestigious chapter achievement award and to keep abreast of new developments jurisdictionally;
- Increase chapter membership and sponsorship to continue to broaden best practices as risk awareness and ERM growth in the industry;
- Streamline board efficiencies, including administrative matters to continue to service membership;
- Continue to offer up-to-date educational and networking opportunities

- for our members through our Professional Development sessions and other chapter events throughout the year; and
- Enhance our outreach to campuses as we work with student members to help educate and provide opportunities to learn about the risk management field for the next generation of risk managers.

As RIMS’ presence and growth expands internationally, the ORIMS Board will continue to contribute their professionalism and teamwork to align with the strategic organization of RIMS.

As a final word, our appreciation to the volunteer’s employers for this support in respect of the ORIMS participation which collectively make our chapter a continued success!

Suzanne M. Barrett (2013-2014)

RIMS will be the Global Leader in all aspects of Risk Management.

■ **BY: Jill Levy**, Director of Membership, RIMS

Chapters have been a fundamental aspect of RIMS – and a tangible benefit of memberships – for all of RIMS 62 years. In fact, the New York Chapter dates its establishment prior to RIMS, having celebrated its 75th anniversary in 2011. The role of chapters is, in general, to provide resources, professional development and networking opportunities on

a face-to-face basis for risk practitioners in a targeted geographic area. At the beginning of 2013, we had 80 chapters – 56 in the US, 10 in Canada, one in Japan (since 2001) and one in Mexico (since 2004). Chapters in Canada comprise 1,183 members (as of May 31, 2013), 362 of whom are in ORIMS. Excluding

students, ORIMS is the 5th largest chapter in RIMS. The concept of RIMS expanding beyond the boundaries of North America and enhancing its worldwide brand is not a new one. After all, RIMS has been a member of the International Federation of Risk and Insurance Management Associations (“IFRIMA”) for years. And the Board of Directors has established global recognition of RIMS as

an objective for nearly a decade. But 2012 and 2013 have been years of real progress with regard to RIMS presence as a thought leader in risk management throughout the world. Following several years as a task force, the Board established the International Committee in 2011. The Committee had two

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TO PROMOTE AND ADVANCE EXCELLENCE IN RISK MANAGEMENT						
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Limits of an Insurer’s Obligation to Assess Risk and Coverage

By: Ian Gold and Cathy Keyes, Thomas Gold Pettingill LLP

It is quite common for an insurer to attend at a company and perform its own risk assessment, even when a sophisticated insurance broker is involved in the negotiation of insurance. The purpose of these visits is primarily to gather information for underwriting purposes, but the insurer’s representatives may also offer suggestions to reduce common risks or issue risk assessment reports. To what extent can a company rely on these assessments as peace of mind that their risks will be covered?

If an insurer agrees to issue an insurance policy with a certain limit, can that be taken as an assurance that the limit requested is reasonable? To what extent can a risk manager rely on the insurer’s issuance of the policy as evidence that his or her company will have adequate limits available?

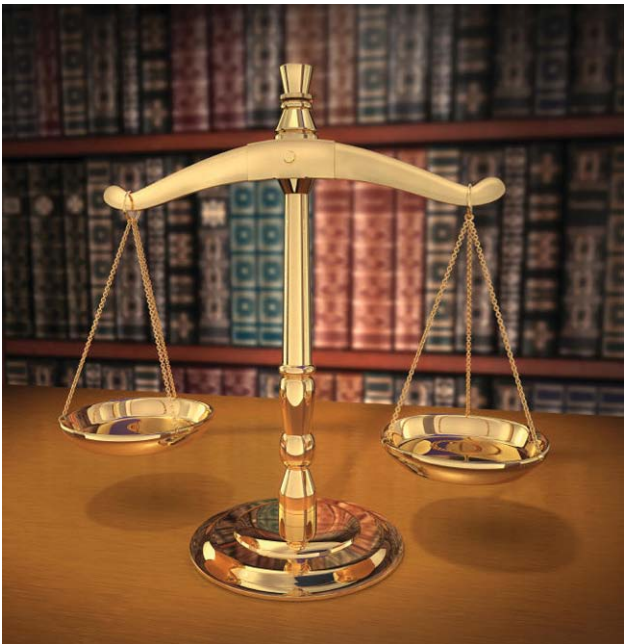
Two recent decisions of the Ontario Superior Court of Justice have confirmed that, in situations where there is a sophisticated insurance broker intermediary involved, the obligation of the insurer to the insured company will not generally extend beyond issuing the policy requested by the broker.

In *Ostenda v. Bahena Miranda* (2012), 113 O.R. (3d) 701 (Ont. S.C.), the plaintiff was a truck driver who was working in Illinois when he was struck by an underinsured motorist. The company for which the plaintiff was operating the vehicle was insured by Zurich under a fleet motor vehicle policy.

When it had received the initial request for insurance from the broker, Zurich had undertaken a risk management survey of the trucking company, Synergy, and had

prepared a risk assessment report as a result of that assessment. The risk assessment report contained suggestions for ways in which risk could be improved. The policy was issued. Each year on renewal, a similar risk assessment report was prepared and suggestions were provided to the insured company.

The plaintiff argued that Zurich breached a duty of care by not providing an underinsured motorist endorsement or advising of all the risks and potential gaps in coverage. Justice Stinson held that in the *Ostenda* case, where there was a sophisticated broker intermediary, there was no evidence that the insured company relied on any representations of Zurich. He further held that the risk assessment reports were intended to be for the benefit of Zurich and not as an advisory tool for Synergy: It is true that Zurich conducted its own risk assessments of the business of Synergy and that it supplied Synergy with risk assessment reports. It is important to put those matters in context, however. Since it was being asked to underwrite the risk, Zurich had to make its own assessment of the potential for claims being made and paid in relation to the coverage sought. The basis upon which it conducted its assessments, therefore, was from the perspective of underwriting the risk. The evidence does not establish that Zurich undertook this effort in order to become familiar with the business and insurance needs of Synergy in the same



fashion as a broker, i.e. to advise the customer as to its insurance requirements; rather, it set out to assess the risks from an underwriting standpoint.

It is true that in the risk assessment reports that it supplied to Synergy, Zurich included recommendations and advice to Synergy regarding steps that Synergy could take to reduce its exposure to claims. In my view, however, the purpose of Zurich doing so was to reduce the potential for claims on the policies and in turn to reduce Synergy’s long term insurance costs.

Justice Stinson noted that the risk assessment reports contained an explicit disclaimer of liability. He further noted that there would be a significant duplication of effort if both brokers and insurers were expected to explore the insured’s business and advise that client regarding its insurance needs.

The *Ostenda* decision was consistent with the Ontario Superior Court’s previous

decision in *Boudreau v. Ontario Soccer Association*, 2012 ONSC 4461 (CanLII). In that case, the plaintiff was rendered paraplegic in a soccer game. He sued a number of parties, including Chubb, which had provided a policy to the Ontario Soccer Association with disability benefits of approximately \$40,000 to players injured in a game. The plaintiff alleged that this coverage was “woefully inadequate”.

In *Boudreau*, the Court held that where an experienced broker was involved, the insurer owed no duty to the insured except to issue a policy in accordance with the application provided. There was no requirement to advise on any real or perceived inadequacies in coverage.

It is worth noting that in a different case, it is possible that a different result could have been reached by the Court. For example, the result may have been different if the insurer had explicitly provided assurances to the insured company about the sufficiency of coverage. However, it is clear that risk managers should not rely on risk assessment reports from insurers, or an insurer’s acceptance of their company’s insurance application, as evidence that the risks have been fully assessed or that the requested coverage is sufficient.

Thomas Gold Pettingill LLP is a preeminent litigation law firm assisting corporate policyholders obtain insurance coverage for a wide variety of claims. The firm also represents insurance companies in the defence of significant property and liability claims as well as corporations in complex commercial disputes. Situated in Toronto, the lawyers at Thomas Gold Pettingill LLP have developed a Canada-wide reputation in insurance law.

RIMS will be the Global Leader.... ...from page 1

primary orientations, 1) provide products and services for existing or prospective RIMS members in North America who were doing business or had divisions/subsidiaries located around the world. and 2) provide resources for global businesses doing business (or seeking to do business) in North America. And the challenge was on! Since then, we’ve participated in conferences and presentations in Latin America and the Middle East, created in-

tellectual property to address global risk issues and collaborated with industry leaders to expand available knowledge on global insurance practices. Strengthening the Society’s chapter structure is one of RIMS strategic goals and the expansion of chapters to provide localized networking and resources.

During 2012, we were approached by risk practitioners in Peru and Australia about the formation of chapters and by the first quarter of this year, both had received charters from the RIMS Board

of Directors to establish the RIMS Peru Chapter and the RIMS Australasia Chapter. A fulltime position was established at RIMS headquarters for an International Initiatives Manager, being filled by existing Membership Manager Darlene Lebron Lopez. And in December 2013, RIMS will conduct its first international workshop outside of North America in Melbourne, Australia. A similar workshop/conference is being planned for Peru in 1Q-2014.

In 2013 and 2014, RIMS will launch an

international website and produce on several globally-focused white papers and webinars. And while continuing to produce the vast amount of intellectual property in English, RIMS will continue to assess the need for production of resources in other languages. Representation of RIMS’ diverse members – North American and International, Insurance and ERM/SRM-focused, established professionals, students and young risk practitioners will continue to be a focus of members, volunteers, leaders and staff.

Construction Site Safety – The Building Blocks for Project Success

■ By: **Rob Cruickshank**, Underwriting Director - Property, Construction and Engineering RSA Canada

Accidents on construction sites continue to affect the success of major construction projects across Canada. Not very long ago, we were shocked by a fatal accident at a Toronto construction site; and who can forget recent incidences in Calgary and Toronto, where scaffolding fell to sidewalks below, risking the safety of unsuspecting pedestrians? Incidences like these can be both traumatic and costly for everyone involved. As such, project owners and managers share a responsibility to champion site safety. Whether working at heights or with heavy equipment, having proper protocols and procedures in place will ensure the safety of the team, the public and the site itself – not to mention profitability.

It can be extremely difficult to ensure site safety when working with heavy equipment, at dangerous heights, and maneuvering machines through complex spaces. Large scale projects involve large scale risks, which call for meticulous planning. If you're unsure where to start, contact someone who specializes in risk: an insurance broker can help you identify loss control techniques that minimize risks to members of the public, construction site workers and your valuable equipment.

The following outlines six key risk factors and the important steps you can take to mitigate potential losses and increase your chances for project success.

Fire

A key culprit of accidents on construction sites is fire. Permits for hot work clearly outline safety procedures, but it's easy to take fire safety for granted when you work with it every day. Poor adherence to safety policies can have disastrous effects and is a common cause of onsite injuries. When working on a heat applied rooftop, for example, you must have fire extinguishers within easy reach and a team member should be tasked with "fire watch" once work is done for the day. The same applies to welding work or cutting operations.

Temporary heating appliances with an exposed flame are another cause of fire damage. Improper ventilation can not only cause carbon monoxide poisoning

but also start a fire if used incorrectly. A little diligence can go a long way to prevent such serious fire risks.



Weather

We've been experiencing weather turmoil in all parts of Canada – from damage due to storms, snow, and ice buildup. Sites become more vulnerable as severe weather patterns continue to rise across the country. Strong winds and hurricanes can cause steel frame buildings to collapse under extreme wind, putting projects on hold and resulting in major business implications for project owners. Such incidences can be easily prevented by assigning a team member to monitor the weather to ensure the site is properly braced before a storm. This type of assessment should be business as usual for an experienced

contractor, but an insurance loss control consultant can offer advice as well.

People

Construction sites and heavy equipment are magnets for adventurous children and curious neighbours. Adequate security, signage and fencing can ensure your site is keeping these members of the public safe in the surrounding areas. It is recommended to fence the entire perimeter of the site and install guardrails around dangerous areas such as excavation holes or open pits to minimize the risk of anyone getting hurt.

To protect your heavy equipment, the construction site, yourself and your team, make sure to post the signs at the entrance that require visitors to wear proper equipment, such as hard hat and safety footwear. This is key to protecting you against liability claims, should an accident occur. Site offices should be instructed to prevent visitors from wandering around, in order to minimize risk on the construction site.

Housekeeping

Loss control consultants pay special attention to housekeeping on a construction site. Housekeeping is a very simple thing to control and one of the easiest safety measures to put in place. It is recommended to establish this as a best practice on site. For instance, clearing out piles of debris can help prevent flammable materials from lying around. Flammable liquids such as gasoline need to be stored safely and securely to prevent accidents.



Site Safety Management

One of the key methods of ensuring site safety is to appoint a site safety manager to oversee all protocols and conduct routine inspections, including the proper inspection of machinery and heavy equipment. If the boom of a tower crane were to fall because a support pin came out during high winds, for example, imagine the destruction to the project, let alone the possibility of serious harm to individuals below. Cranes must be inspected and reported on a daily basis – and this is just to supplement the annual inspections of a qualified engineer, not to mention the inspections required after a repair has been done. All of this due diligence should be recorded in a log book for review during any site inspection.

Planning

A comprehensive site safety plan should be at the foundation of all construction projects. A good plan will address everything from fire prevention and weather events to site security and housekeeping, and should outline a schedule for routine inspections. Get to know the guidelines and be a champion for site safety on your worksite. Once you have a quality plan in place, it can easily be updated for other projects and it's a great sign to your insurance company that you are committed to operating a safe site. Improved safety experience typically results in an insurers' stamp of approval – potentially at a better rate.

Rob Cruickshank is the Underwriting Director for Property, Construction and Engineering Insurance at RSA Canada, a leading home, auto and business insurer. Rob has over 25 years of experience in the property and casualty insurance sector and is a member of the Canadian Construction Association (CCA), Canadian Construction Documents Committee (CCDC) and Nuclear Insurance Association of Canada (NIAC). Additional site safety information can be secured from your local chapter of the CCA.

Gaps, Duplication and Inadequacy... a yearly insurance check-up



■ By: **Brian Rosenbaum & Dougal C. Martin**, AON

After a long winter, hopefully, you've had time to open the windows and let a little light into the house. Businesses, like people, often undertake a thorough spring-cleaning – a sweeping of the metaphorical garage. Spring is a great time to dust off recovery and continuity plans, evaluate information systems, and assess how business plans are performing. Evaluate, correct and continue is the mantra of good business managers. But what about your risk transfer program? Will it be dusted off, given a fresh look, evaluated and corrected (if necessary) to make sure it's performing the way you and your business expect it to?

Your business insurance program should be evaluated carefully against both risk tolerance and expectation. Does the program in place accomplish what you think it does? Unexpected gaps in an insurance program can lead to large and unexpected losses.

An insurance program and policy diagnostic can help you avoid unanticipated negative coverage outcomes. To help you with this task we suggest you take the following steps:

Gather your Policies

This might seem like a no-brainer, but you'd be surprised how many companies, especially ones with satellite offices or multiple subsidiaries, don't have a full view of their insurance program. You should undertake to marshal all of your insurance policies into one place, making sure to include any subsidiaries in remote locations. Foreign jurisdiction compliance requirements may have necessitated the purchase of locally admitted policies or specific types of insurance. You'll need them all to complete your review.

Do some stress testing

Assessing your program is about understanding how your different policies fit together, and ensuring there are no unintended gaps. While we always recommend you read your policies carefully, trying to do so in a single sitting can be a daunting, and possibly a futile task (as

anyone who's done a policy audit can tell you). It can be useful, instead, to think through your insurance program by thinking about past claims, or possible future claims scenarios, in order to ascertain how the various policies will respond. What are the risks that keep you awake at night? Are you confident you have them covered? Consult with your colleagues or your counterparts at other office locations and make a list of your risks. Map them out, and then dive into your insurance program. You might be surprised at what you find, or don't find. Take a common



occurrence: the theft of a laptop or other data storage device. Imagine your Director of Sales suffered a vehicle break-in while travelling on business. Your first thought might be to assume that any loss from a theft while travelling on business would be covered by your company's commercial crime policy. Except that most commercial crime policies only provide cover for tangible property. Sure, the replacement cost of the laptop might be covered, but what about the data inside. The intangible property might not be covered at all, and in this day and age, the value of your data can far outweigh the value of the device it's stored on.

Overlap and Insufficiency

Insurance programs are made up of multiple policies, and they (ideally) fit together like a puzzle. But, different policies are really different products, and they might not fit together perfectly. This means

you might have one of two problems: overlapping coverage or insufficient coverage.

Overlapping coverage is when a loss or occurrence triggers more than one insurance policy. This can complicate the claims process, and it can also mean you're paying for insurance you don't need. For example, if you buy fiduciary liability insurance and general commercial liability insurance there could be a duplication of coverage for administrative errors in registering employees under a company health or benefit plan.

Insufficiency, on the other hand, is when you have a glaring gap in your coverage for a risk you didn't want to retain. Stress testing your policies can reveal some surprising insufficiencies. One of the most common we see is with respect to director and/or officer liability arising out of a company error or omission in the providing of professional services. A Director and Officer Liability policy is designed to protect the board and management from losses due to their lack of oversight in the company's affairs. Many of these policies contain broad professional services exclusions that would limit coverage for such claims. Error and Omissions insurance policies with a too restrictive definition of professional services could also preclude coverage for these claims. This type of insufficiency needs to be thoroughly explored.

Limits and Structure

In addition to overlaps and insufficiencies, you'll want to pay attention to limits and structure. If your program has excess insurance layers, you'll want to go right up the tower to make sure they align and follow form. Any exclusions on lower layers not included on upper layers can present a drop down risk, just as exclusions on upper layers not included on the lower layers may result in your overall limit of insurance for a particular loss or occurrence being less than you think it is. The structure of your program also needs to reflect the reality of your corporate structures. If your organization utilizes alternative business vehicles such as trusts,

partnerships, limited liability corporations and REITs, your insurance policies need to recognize these appropriately through definitions and nomenclature in order to affect coverage. Insurance that doesn't respond is really no insurance at all.

Talk to a Broker

You've done the review, and maybe you've found some problems, or you have some questions. Now it's time to call an insurance broker well versed in the types of coverages your organization needs. An experienced broker can audit your policies to determine not only how much insurance you need and what you need it for, but also whether your existing programs has gaps and deficiencies. Each business is different, and it's important to have someone who can walk you through your business' risk tolerance and appetite and tailor a program to meet your needs. Your insurance is like any household appliance – you don't think about it until it breaks. The time to service your insurance policy is before you have a major loss or occurrence, not after.

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By: **Rob Thomas P.Eng. and Elvira De Gasperis CRSP**, Pinchin Environmental Ltd.

Insurance Professionals tasked with overseeing the clean-up and subsequent re-fit in buildings impacted by water damage events may be unknowingly exposing themselves and their clients to significant regulatory liability based on non-compliance with Construction and Health & Safety regulations. Large water damage events are all accompanied by a sense of urgency to restore the property and bring the client's operations back to normal as soon as possible. Unfortunately, the resulting haste, coupled with operational chaos, controlled or otherwise, can lead to numerous violations of the Ministry of Labour (MOL) Construction Health and Safety regulations. Understanding what the regulations demand and incorporating regulatory compliance into an emergency response plan will help to limit liability.

The first thing for the Insurance Professional to avoid is becoming the Constructor on the project. In Ontario, the Constructor has total responsibility for health and safety for all of the contractors and their staff on the project. If the Insurance Professional coordinates more than one contractor in a work area, or if more than one contractor is present, even if the work areas only overlap by a small amount, the Insurance Professional could become the Constructor under the Construction Health and Safety Act, and would have to be registered as a contractor with the MOL. It is crucial to know which parties are involved and have their roles clearly defined to avoid this from happening. Utilization of the primary contractor as the General Contractor who engages, coordinates and pays all sub-trades can usually transfer this liability.

A second administrative but important requirement is the Notice of Project (NOP), which must be filed with the MOL for all projects meeting specific criteria before commencement of a project. One of the criteria is any project with a value of more than \$50,000. A copy of the NOP must be posted in a conspicuous place at the project or be available at the project for review by a MOL inspector. Arguably, in many emergency response situations the value of the project is not known at the time the work starts, however, under these circumstances there is a good chance the MOL would prefer the NOP be filed if there is any chance the project could meet the reporting criterion.

An additional duty for the owner or the owner's agent, regardless of the requirement for a NOP, is the need to identify to the Constructor the presence of any Designated Substances which could be disturbed by the work (Section 30 of the Occupational Health and Safety Act). In Ontario, there are eleven Designated Substances and of these eleven, 4 are commonly found in buildings: asbestos, lead, mercury, and silica. The regulations require that the presence of these materials be reported to the Constructor, and that this information be provided to all sub-contractors on the project.

Complying with the above building materials requirements is further complicated by the lack of information typically available from the client or building owner. Pinchin Environmental estimates that fewer than 20% of Ontario buildings are in compliance with the now 28 year old requirement to have an asbestos sur-

vey in place. Even when the survey is available, it rarely will provide the level of detail required to carry out construction, and will almost never give information on the other Designated Substances present.

By far the most common Designated Substance in buildings is asbestos. Most people are under the erroneous assumption that asbestos is only present in older buildings, constructed before 1985. Although it is true that most uses of asbestos were



phased out through the 1970s and early 1980s, and all friable (easily powdered by hand pressure) asbestos was banned in Ontario in 1986, some non-friable materials are still being installed in new buildings today. It is a requirement under O.Reg. 278/05 that building owners have a record present at the building documenting the presence of all friable and non-friable asbestos. Additionally, before a project commences, the regulation requires that reports, specifications and plans, as appropriate, be provided to the contractor stating the location of all asbestos, if it is friable, and the condition of the material. There have been numerous cases of owners and constructors being charged by the

MOL in cases where designated substance and asbestos information has not been provided. In addition to the regulatory risk, discovery of asbestos materials during the work will often result in delays and cost overruns.

If no information is available on the presence of asbestos, the project can only proceed by assuming that all of the materials being disturbed are asbestos-containing. Making this assumption is costly and really very impractical due to the necessary precautions and actions required to minimize exposure risk to workers and occupants.

The most common asbestos-containing material affecting water damage restoration projects is the presence of asbestos in drywall joint compounds. The use of asbestos in joint compound was common until it was banned in 1980, and some use of stored materials continued into the early 1980s. Removal of more than 1 square meter of drywall with asbestos-containing joint compound is a Type 2 operation in Ontario, which means that specially trained workers with proper protective equipment have to perform the work in a controlled environment.

Fortunately, the precautions related to asbestos are very similar to the precautions required to address mould growth (which is often present on water affected drywall). Even if a current survey is present, the problem with joint compound is that the older and newer wall systems are impossible to distinguish visually, and unless testing has been done at the actual location being disturbed by the remediation, previous test results may not be valid.

Continued on page 6 ...



The advertisement features a large, stylized water droplet as its central visual element. The droplet is split horizontally: the upper portion is white and set against a solid teal background, while the lower portion is a vibrant pink and set against a light green background. Above the droplet, the text "When it comes to pollution, fines are just a" is written in white, bold, sans-serif font. Below the droplet, several paragraphs of text in black, sans-serif font provide details about environmental insurance. A bulleted list of costs associated with pollution is presented in a bold, black, sans-serif font. At the bottom right, the slogan "MAKE YOUR WORLD GO" appears in a bold, italicized, black, sans-serif font. In the top right corner, the "XL Group Insurance" logo is displayed, consisting of the company name in white text next to a large, white, stylized "XL" monogram.

When it comes
to pollution,
fines are just a

The true costs of pollution
are much higher than the fines:

- Surveying
- Assessments
- Restoration Costs
- Clean-up
- Compensatory Damages
- Business Interruption

Most insurance policies don't cover the
unforeseen costs from a pollution incident.

This one does.

Environmental insurance from XL Group
combines underwriting expertise, risk
engineering and quick, fair claims handling
to support you every step of the way.

We're the perfect size. Big enough to protect you
and small enough to stay flexible.

Discover how we can help you to keep
your business moving forward.

xlgroup.com/insurance

MAKE YOUR WORLD GO

XL and MAKE YOUR WORLD GO are trademarks of XL Group plc companies. XL Group is the global brand used by XL Group plc's insurance subsidiaries. In Canada, coverages are underwritten by XL Insurance Company Limited—Canadian Branch. Coverages not available in all jurisdictions.

Liability from Hazardous Materials ...
... *from page 5*

Another issue with existing asbestos inventories is the lack of intrusive testing typically performed for a standard investigation. Most building owners who have a record of the location of asbestos in the building do not typically have holes cut into ceilings, walls and shafts to look for concealed conditions (e.g. to identify the presence of asbestos on piping or the building structure). These areas are usually not examined during the preparation of an inventory to avoid disruption to tenants, and to minimize costs for patching and repair. Yet in a water damage event, which includes emergency response clean-up and subsequent restoration, these concealed spaces are often the very areas that need to be opened up to repair pipes and to clean up water damage. Entry into these spaces often requires the use of necessary precautions for asbestos disturbance during the clean-up work and restoration. Most building owners typically prepare an intrusive inventory only when planning for a construction or renovation project as required by O.Reg. 278/05.

In the event a significant amount of friable asbestos (more than 1 square metre) has to be disturbed or removed by the project, it is also important to understand that the remediation workers and supervisors require Certification by the Ministry of Training, Colleges and Universities (MTCU) to undertake what is referred to as a Type 3 (high risk) Operation. Pinchin's experience is that only a limited number of contractors specializing in insurance work are aware of or comply with this requirement. Hiring a contractor without appropriate certifications can attract liability to the Owner, their Agent or the Constructor.

So what steps can be taken to reduce liability and make sure restoration work takes place quickly and efficiently? Here are Pinchin Environmental's recommendations:

Make sure that one contractor is designated as the Constructor, and all subsequent contracts flow through the Constructor. Make sure the client and/or building owner are not doing additional work in the area at the same time, as one of them, or you, could be considered the Constructor.

File a Notice of Project with the MOL. It is a relatively simple process and ensures you are in compliance if the scope of the restoration grows.

Engage your client and the building owner or managers early to gather all of the existing information on hazardous building materials in the areas affected.

Have someone knowledgeable (third party consultant) identify the data gaps in the existing information. If additional sampling and reporting needs to be done, get it started early in the process. Asbestos samples can be analyzed on rush turnaround, with results in 24 hours or less when needed, but you will pay a premium.

Once the extent of the hazardous building materials is known, communicate this to the contractors, and make sure they follow the correct procedures. If the asbestos work requires Type 3 precautions, ensure that the contractor has the appropriate Worker and Supervisor Certifications before they commence work.

Understanding the information available for each building and identifying the gaps are key in keeping the work within regulatory requirements, controlling project timelines, and ensuring worker and occupant safety during the clean-up and restoration work.

* * *

Rob Thomas is the Senior Vice President of the Hazardous Materials Group at Pinchin Environmental Ltd. He is Pinchin's National Service Line Leader for Hazardous Material work and is responsible for delivery of these services across Canada.

Elvira De Gasperis is a Senior Project Manager in the Indoor Air Quality and Microbial Contamination Group at Pinchin Environmental Ltd. She is the insurance sector specialist with over twelve years of experience in water damage claims. Elvira provides water damage training out of the Mississauga and Toronto offices.

WINMAR SIGNS CONTRACT WITH SYMBILITY SOLUTIONS INC



Left to right: Paul Wormith - Winmar Co-Founder & CEO, John Burega - Symbility Sr. VP Sales & Marketing, John White - Winmar Co-Founder & President, James R. Swayze - Symbility CEO, Lyne Mercier - Symbility Regional VP Sales Canada, Tom Brodhurst - Winmar Executive Vice President, Glenn Woolfrey - Winmar Executive VP Corporate Operations

Winmar Franchise Corp., a London, Ontario-based independently owned and operated property restoration company with over 85 offices across Canada, is pleased to announce that they have signed a multi-year agreement to integrate Symbility Solutions Inc. ® (TSX.V: SY; OTCQX: ATBEF), a provider of cloud-based smartphone/tablet-enabled claims technology that uses one of the most comprehensive data for the property and casualty insurance industry into its daily operations.

"It is with great pleasure that we welcome Winmar, one of the leaders in the restoration industry in Canada, and their franchise owners to our valued and growing client base," said James Swayze, CEO, Symbility Solutions. "Symbility is committed to supporting contractor networks and restoration companies and we are proud to be one of the estimating platforms that Winmar has chosen for their large network of offices across the country."

"Winmar has been in business since 1977, with offices spanning from St. John's Newfoundland to Victoria, British Columbia. Our partnership with Symbility enables our franchises to collaborate on the most innovative cloud-based platform in the market and will enable us to provide our valued customers an alternative choice in the software we use to estimate their claims," comments John White, President/Founder, Winmar Franchise Corp. "We look forward to a successful, long-term relationship with Symbility Solutions as we continue to expand the way we service our customers."



Chapter Events

2013 ORIMS Annual Golf Tournament

On Tuesday June 25th, ORIMS held its annual golf tournament at Deer Creek Golf Club in Ajax. As always, the event was a popular affair with approximately 264 golfers participating, drawing ORIMS Members and their guests for a day of sunshine, socializing and hopefully not too many lost balls. A fantastic day was had by all. Even the weather co-operated (at least until the last hole). A special thanks to our sponsors, Cunningham Lindsey, who provided the photos, Sedgwick Canada for the golf balls, Granite Claims for the home theatre system Prize, and to all of the other generous contributors that allowed us to offer an amazing prize table. ORIMS

would especially like to thank Steve Kelly for all his hard work in organizing the tournament, along with Nancy Lacroix and Anne Hildreth with their team of volunteers who helped throughout the day with registration and the distribution of prizes.





53rd Annual General Meeting

The 2013 Annual General Meeting of ORIMS was held on May 15th, 2013 at the Hockey Hall of Fame in Toronto and followed by a reception that was open to all. The AGM is the opportunity for Corporate Members to express their views on the work that ORIMS is doing on your behalf and provide your support (or concerns) to the many volunteers that are involved.

If you did not attend, we encourage you to attend next year.

The AGM was followed by a reception in the main hall, adorned by the Stanley Cup, affording those risk managers that are hockey fans, the opportunity to have their photo taken with the cup. As the party moved downstairs into the museum, the bravest amongst us took their best shots at the goalie and scoring simulators.



Annual General Meeting: 2013/14 Board of Directors, Left to Right: Mark Morency, Shannon Devane, Tina Gardiner, Joseph Costello, David Beal, Suzanne Barrett, Julian Valeri, Paul Provis, Glenn Morato, Sandra Awazani. Board members not in the picture: Agata Jamroz and Mark Cosgrove.



Photos:
Courtesy of Canadian Underwriter's Magazine





RIMS CANADA Conference

Join other risk and insurance professionals on a voyage of Discovery
at the 39th Annual RIMS Canada Conference. October 6 - 9, 2013
The Victoria Conference Centre



*With Plenary Speakers from the furthest depths of the Mariana Trench to
the outer reaches of space*



Dr. Joe MacInnis - Monday, October 7, 2013



Colonel Chris Hadfield - Tuesday, October 8, 2013

For more information visit www.rimscanadaconference.ca

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The opinions expressed are those of the writers and the volunteer members of the PULSE Editorial Committee. Articles submitted to the PULSE for publication are subject to the approval of the PULSE Editorial Committee. Approval of such articles is based upon newsworthiness, and perceived benefit to the readership. All decisions of the PULSE are not subject to appeal. Individuals submitting articles to the PULSE hereby acknowledge their acceptance of the PULSE Editorial Policy.

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