

Transferring a Book of Business and Transparency

by Carole Chauvin, syndic

This article is based on actual cases that were brought before the syndic. We hope it will help you to reflect on the quality of your professional practice, specifically with respect to your ethical obligations.

The Complaint

An insured arrives at the syndic's office to report that an insurance broker, whom she does not know, whom with she has never done business, has recently authorized a new insurer to automatically debit her personal chequing account for a new automobile insurance policy. The insured does not understand how such a thing could occur and makes a complaint to the syndic of the ChAD.

The Case

In 2005, Broker A decides to concentrate his private practice in the field of life and health insurance. He does not renew his damage insurance broker's certificate and transfers his few damage insurance clients to Broker B, who thus inherits a whole new set of clients.

Broker A sends a form letter to all his insureds: "...in the wake of a strategic agreement reached between Broker B and Broker A, I have the pleasure of announcing to you that henceforth Broker B will be servicing your insurance contract...". It should be noted that the investigation reveals that Broker B never contacted his new insureds. Thus, the complainant—who has, for several years, held an in-force automobile insurance contract with ABC Insurer that was paid for by direct debit—receives no notification, either by telephone or letter, from her new broker.

When the automobile insurance contract in question comes up for renewal, Broker B, who does not distribute ABC's Insurance's products, places the risk with



XYZ Insurance and sends to the new insurer the insured's banking information in order to make sure that the premium is paid by monthly direct payment. The banking information comes from a void cheque in the client's file that was provided in 1999.

XYZ Insurance issues a new automobile insurance contract and begins debiting the insured's account monthly. Swamped with work due to a shortage of support staff, Broker B neglects to speedily send the insured her new contract.

When her automobile insurance contract comes up for renewal, the insured notices that the money debited from her account is being paid to a company she does not know: XYZ Insurance. She asks her bank to cancel the transaction and reverse the charges. In response, XYZ Insurance terminates her automobile insurance contract and launches proceedings to collect the earned premium. The insured, finding herself without any automobile insurance coverage, goes to the substandard market and purchases an automobile insurance contract that includes very restrictive insurance and payment conditions. She then goes to the Court of Quebec, Small Claims Division and sues Broker B for trouble and inconvenience.

The Offences

After conducting an investigation, I decided to bring a formal complaint before the Discipline Committee against Broker B for the following reasons:

1. The broker did not notify his new client of the steps he had taken to secure automobile insurance coverage for her, in contravention of, among other things, section 37(4) of the Code of Ethics of Damage Insurance Representatives;
2. The broker failed to respect the secrecy of personal information provided by the insured—in this case, the banking information used for purposes other than those for which it was collected—in contravention of, among other things, section 23 of the Code of Ethics of Damage Insurance Representatives.

Conclusion

The broker acknowledged his mistakes and decided to plead guilty to the two offences.

These are serious offences. Since he did not distribute ABC Insurance's products, Broker B actually did what he was supposed to do to avoid having his client lose her insurance coverage. However—and this is crucial—he never notified his client of all the professional acts he had performed to maintain her coverage. Nor did he obtain her specific consent to use her banking information to purchase a new automobile insurance contract from a new insurer.

In the final analysis, transferring a book of business is your decision. However, it is your duty to notify your clients in a timely and transparent manner. This also applies to direct debits. Insureds do not consent to have you use their highly personal and confidential information as you please. You must always obtain your insureds' free and informed consent!

Comments?

Don't hesitate to contact us at info@chad.qc.ca.