

Inside Information

You have been providing brokerage services to a large commercial entity (ABC Company) for a number of years for its workers' compensation, general liability and property coverages. Combined premiums for the last several years have exceeded \$3 million and ABC is one of your top five accounts.

ABC recently hired a new risk manager who has advised that she is concerned that ABC is paying too much for the coverages that it places through you and that, unless you can find a way to reduce premium cost without reducing coverage, she will begin shopping the coverage through other brokers.

In the past, price has not been an issue and you have "shopped" the coverage through 2 or 3 carriers who you feel will provide the best coverage for the price. However, you now feel that you must "shop" the coverage more extensively and obtain quotations from 6 carriers. All are from insurers currently rated A or A+. Four quotes are higher than the current price, one is essentially the same as the current price, and one would result in a cost savings of approximately \$300,000.

Unfortunately, the lower cost carrier is one that you have reason to believe is experiencing financial difficulties. Your suspicions are based upon information shared with you by your next door neighbor who is a claims manager with the insurer. Over the past 4 months, your neighbor has been troubled by a number of activities at his employer and has shared with you internal rumors about financial statement inconsistencies and claim reserving deficiencies. Most recently, your neighbor shared concerns that the insurer's financial difficulties may be even greater than he had anticipated and that there was much internal discussion that company management was trying to hide the accounting and operational errors in the hopes of turning things around before auditors and regulators discover the problems. Thus, at this time, any financial difficulties of this insurer would not be apparent from financial information that is publicly available on the insurer.

You are feeling a great deal of pressure from the new risk manager to present some kind of cost savings, and, you really want to – and need to – retain the account.

[Instructor's setup: You have the interest of the broker to retain the account, you have a sophisticated buyer. You want to create an environment where the duties of each are developed in the discussion. You want to create an ethical dilemma for the use of inside information obtained from a party whose motivation, accuracy and truthfulness are not known. Review the following questions as a guide.]

1. Should the broker present all the quotes, including the quote from the insurer with the rumored issues?
2. Does the broker have an obligation to provide the source, the detail, and his opinion of the veracity to the risk manager?
3. What is the duty of the risk manager vs. the duty of a broker? What consideration should be given to the insured as a sophisticated buyer of insurance?