



NEWSLETTER

www.rimscanada.ca

MAY 2013

MESSAGE FROM RIMS CANADA COUNCIL CHAIR BETTY CLARKE

Spring has arrived and I look forward to continuing my work as Chair of the RIMS Canada Council (RCC). It is an honour and privilege to be working so closely with a great executive team. Our Past Chair, Tino Brambilla, is always there to lend a helping hand. The other strong members of our executive team are Roman Parzei, Vice Chair, Ren Lips, Treasurer and Sue Mephram, the best Secretary ever.

The RCC is very fortunate in having great representation from all chapters across the country. It is through the dedication of our many volunteers that we continue to move forward with our goals and are able to provide the many benefits we offer to our membership, including regular updates via this newsletter. Carrie Green, Editor of this newsletter continues to do a great job. A sincere thank you is in order and extended to you Carrie from all of us.

We remain dedicated to concentrating on the needs of you, our Canadian members. We believe that the new member category names adopted by RIMS better describe our membership. The new category names are "Organizational" instead of Corporate, "Professional" instead of Deputy and "Transitional" instead of Affiliate.

The RCC held its annual winter planning session on January 25-26 in Winnipeg. The main objectives of the RCC are to improve the delivery of primary products and services, exchange new ideas, continue membership growth, make efficient use of available resources, promote volunteer succession planning, develop and utilize an appropriate budget and ensure that tasks required to achieve goals are assigned with

appropriate follow-up. I am pleased to report that upon review we have had continued success in meeting these objectives.

One of the major accomplishments from the annual planning meeting was the motion passed to establish a Programming Committee of the National Conference Committee as of February 1, 2013. The Programming Committee is made up of knowledgeable, experienced risk management professionals from across the country. This is very exciting news and a major step in ensuring top quality educational programs for RIMS Canada Conference delegates.

The 2013 RIMS Conference in Los Angeles took place April 21-24. I am pleased to advise that two of our RCC Executive (including myself) attended this very interesting and informative conference. This year the annual RIMS Canada Conference will take place in beautiful Victoria, BC. Our friends in Victoria are getting ready to extend a big warm welcome to all of us on October 6-9. If you have not already done so, be sure to book your hotel for this year's conference. To find more information about the RIMS Canada Conference, visit the official



website <http://rimscanadaconference.ca>. We look forward to networking with you in Victoria.

While the RCC is best known for its annual RIMS Canada Conference, it is important for you to take note that we are always here to address your Canadian risk management needs. A positive step to assist you in this regard is the development of our new RIMS Canada Council website which provides you with improved links and communication material. Please remember that if you have a risk management concern, bring it to your local Chapter, who in turn has a voting representative serving on the RCC. The RCC continues to meet face to face twice a year, once in

January to review our objectives and action plan and once in September (this year in October) to review the progression of these objectives. There are also regular conference calls at least bi-monthly. Therefore, any issues you may have for referral to the RCC can receive prompt attention as may be necessary. We are fortunate to continue to have a variety of talents making up the RCC. There continues to be a mix of seasoned and new dynamic members representing the chapters. The subcommittees of the RCC continue to thrive thanks to great leadership and dedicated team members. Our succession plan is in place with a pool of possible candidate names on hand whenever a position becomes available.

The National Conference Committee (NCC), currently chaired by Karin McDonald continues to make progress. This committee under Karin's leadership, has had many achievements, and will continue to work toward providing a positive experience for you, our delegates, exhibitors and sponsors. Many positive changes have already taken place, or are in the planning stages. Karin and her team continue to keep an open mind. All suggestions from our delegates, exhibitors and sponsors are taken seriously and shared with the RCC as necessary.

The Communications and External Affairs Committee (CEA) currently chaired by Steve Pottle, provides us with top quality information via our website and newsletters. Some of the current CEA key initiatives include: responsibility for the inauguration of our new website, reviewing social media strategies, reviewing the Canadian Anti-Spam legislation and other government relations issues and planning the

Continued on page 2...



DISCOVER THE FUTURE OF RISK MANAGEMENT AT THE 2013 RIMS CANADA CONFERENCE

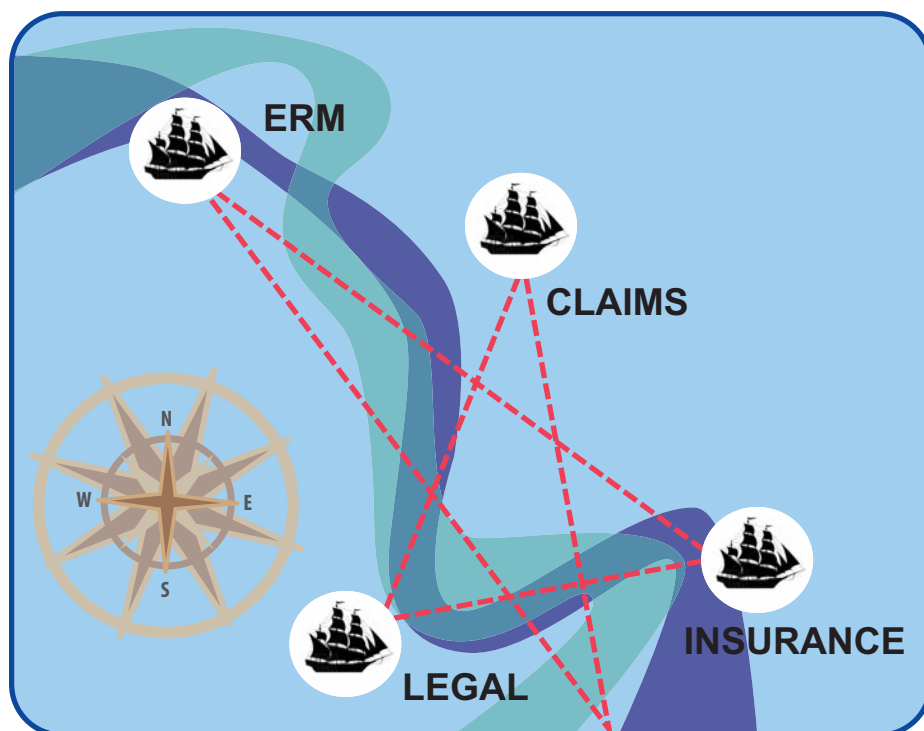


Navigate your way to Victoria, British Columbia on October 6-9, 2013 to Discover the Future of Risk Management. The BC Chapter is excited to invite you to a city proud of its rich heritage, historic downtown, gorgeous gardens and parks, and scenic Inner Harbour. It's the perfect backdrop for this voyage of discovery. Chart your course for the 2013 RIMS Canada Conference in Victoria, BC.

The organizing committee has its sails fully

furled as it navigates past the buoys marking the final months. Our program committee is putting together an exciting nautical map with ports of call at ERM, Claims, Legal and Insurance, with 25 concurrent sessions over 6 blocks.

Our exhibit hall is close to 75% full - be sure to meet your friends and colleagues on the exhibit hall floor starting on Sunday October 6. Tuesday night's first port of call is our Rose Compass Reception followed by the Discovery Regatta.



The Convention Centre is connected to the historic Fairmont Hotel overlooking the picturesque Victoria Inner Harbour. There are six conference hotels: Fairmont Empress Hotel, Marriott Inner Harbour, Hotel Grand Pacific, Executive House, Inn at Laurel Point and Chateau Victoria Hotel & Suites. All accommo-

dations are within walking distance of the Convention Centre.

Look to our website <http://rimscanada-conference.ca> for all the latest information. The local organizing committee and all our volunteers look forward to seeing all delegates and industry partners in October.

Message from Chair

...from page 1

agenda for our upcoming Executive Risk and Insurance Industry Idea Exchange.

The National Education Committee (NEC) chaired by Lynda Lyttle is running in full gear with the delivery from the Institutes of new course material for all three CRM courses. The NEC is now working very closely with the Global Risk Management Institute (GRMI) to roll out these new text books and other materials needed to guarantee top quality material for our dedicated instructors.

To all our instructors, we sincerely appreciate what you do. It is with your assistance that the new generation of risk managers will continue to provide exemplary service to their valued employers.

All of the RCC subcommittees' objectives and strategic goals are reviewed annually for progress and/or amendment, including discussing any new ideas when the subcommittees meet together in March. It is at this time that the Chair of each subcommittee assigns tasks to its members. This ensures we are all well on the way to success in achieving our objectives and goals in order to continue to successfully revitalize and represent our members' needs for 2013.

I am very pleased to advise that this year at our 2013 subcommittee meetings, exemplary service awards were awarded to:

Melissa Ferreira, former RIMS Canada Newsletter editor. Melissa did such a fabulous job in managing the design and issuance of so many editions of this newslet-

ter. Melissa was invited to join the RCC executive and subcommittee members for lunch where she was presented with her award.

Steve Pottle, Chair of the Communications and External Affairs Committee (CEA) was also awarded and honoured for his exemplary performance for being such an outstanding leader on behalf of the RCC in both internal and external communications. Steve also provided major input into the design of the new RCC logo and booth as well as the newly launched RCC website.

A special thank you once again is also extended to our valued industry partners. The RCC is planning our annual Executive Risk and Insurance Industry Idea Ex-

change meeting (previously known as the RIMS Quality Forum) in early June this year. One of the main focus points for the meeting this year is to review "How to promote and continue to add value?" for the investment of our participants attending, exhibiting and sponsoring our RIMS Canada Conference.

In closing, I would like to express a special thank you to all our RCC representatives, committee volunteers and their employers. It is because of your involvement and support that we are, and shall remain, a strong committee of RIMS. Your enthusiasm, motivation and dedication, enable the RCC to grow and take pride in what we do.

RIMS in Canada



RIMS CANADA COUNCIL ANNOUNCES NEW WEBSITE

■ By Andrew Coward, University of Victoria

The RIMS Canada Council (RCC) is proud to present the new and improved rimscanada.ca website. The results of a 2012 survey were clear: rimscanada.ca needed a new look and better functionality. You've spoken and we listened. We've updated the look and simplified the navigation to

provide comprehensive and relevant resources for our volunteer chapter leaders and our members. Whether you are looking for a presentation from a past conference, more information on the Canadian Risk Management Designation or seeing what the RCC has been up to recently, check out rimscanada.ca.

Through this website and various other means of communications, we will continue to keep you well informed of issues occurring within the risk management and insurance industry. Please check out the website, complete the poll and feel free to contact us with any questions, comments,

or requests you may have. Or just tell us what you think.

This was a group effort and we'd like to thank of the members of the RCC website working group that made this happen!



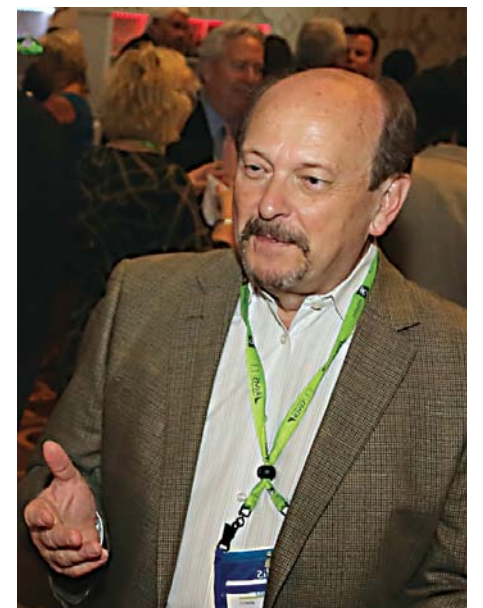
EXECUTIVE RISK AND INSURANCE INDUSTRY IDEA EXCHANGE

■ By Steve Pottle, CEA Chair

In November 2012, the RCC held its annual Executive Risk and Insurance Industry Idea Exchange. Formerly known as the RIMS Canada Quality Forum, the new name better reflects the intent of the meeting: to discuss the common goal of meeting our members' needs concerning current and emerging industry issues.

The "Exchange" was hosted by RCC Chair, Betty Clarke (Newfoundland and Labrador Chapter) and RCC Vice-Chair, Roman Parzei (Ontario Chapter). Invitees included senior members from the Insurance Bureau of Canada, the Insurance Brokers Association of Canada, the Toronto Insurance Council and the Canadian Independent Adjusters' Association.

The format of a working lunch gave everyone an opportunity to spend a few hours outside of their normal work environment



to focus on the activities of their respective associations. It was also a venue to listen to how others are dealing with emerging risks such as cyber risk and severe weather-related events and the lessons learned from man-

aging these risks. Other ideas exchanged included: how can we help each other add value for all of our members through shared educational opportunities; writing articles for each other's respective publications; and

sharing best practices.

The next Executive Risk and Insurance Industry Idea Exchange is scheduled for June 2013.

RCC SUBCOMMITTEE UPDATES

COMMUNICATIONS & EXTERNAL AFFAIRS COMMITTEE (CEA)

By Steve Pottle, CEA Chair

In 2013, the Communications and External Affairs Committee (CEA) will continue to focus on internal communications, external communications, and industry/government relations – all in support of the RCC mission – addressing the interests of Canadian RIMS members and their chapters in support of RIMS mission – to advance risk management for your organization's success.

Two key platforms to support information sharing among Canadian RIMS members, the RIMS Canada Council (RCC) and RIMS are the RCC website and the RCC Newsletter.

We are pleased to announce a new look for the RCC website (www.rimscanada.ca). Launched in March, the new website provides an improved user experience with easier to navigate toolbars. Here you will find information about the RCC, the RIMS Canada Conference, the Canadian Risk Management (CRM) and RIMS Fellow (RF) designation courses, and back issues of the RIMS Canada Newsletter. If you are looking for a Canadian Chapter, you can find it easily through the rimscanada.ca website. The website also has a social media platform where you can read the twitter feed from @RIMSCdaCouncil. We invite you to spend a few minutes on the new site and offer feedback via the contact us page.

Starting this year, the fall edition of the RCC Newsletter will be issued in late November or early December. Up until now the fall edition was distributed at the annual RIMS Canada Conference. With this move, the RIMS Canada Newsletter becomes a true semi-annual publication – eliminating the 7-8 month gap between our fall and spring editions. The November release can focus on RIMS Canada Conference highlights, providing a “walk down memory lane” for those in attendance as well as a nice summary of events to those who were not able to attend.

From an external affairs perspective, the CEA, along with members of the RCC, will host our annual RIMS Canada Executive Risk and Insurance Industry Idea Exchange in June. Formerly known as the RIMS Canada Quality Forum, the “Exchange” is an opportunity for industry leaders and the RCC to meet face to face



Back Row, left to right: Andrew Coward, Stéphane Cossette, Angela Haywood, Gail Cullen, Shelley Vandenburg, Tino Brambilla

Front Row: Sasha Alexander, Carrie Green, Steve Pottle, Betty Clarke

to discuss some of their key initiatives and offer ideas and perspectives on how to add value to our respective memberships.

The CEA is working with the RCC Membership Captain, Paul Provis (Ontario Chapter), to identify opportunities to increase our profile and membership within the small and medium enterprise (SME) community.

We will continue to promote the profile of the RCC and the CRM and RF professional designations through strategic partnerships with key industry associations and the business community. The CEA

will also work with the National Conference Committee and the Local Organizing Committees of the RIMS Canada Conference to improve the conference experience for returning delegates and new attendees. The CEA is developing a Social Media policy to help guide both the RCC and the Canadian chapters of RIMS in promoting our respective messages through a wide range of platforms such as LinkedIn and Twitter.

From a legislative perspective, the CEA, along with RIMS, will review the Canadian Anti-Spam legislation (CASL). This new legislation has an impact on both the in-

ternal operations of our organization and how RIMS and the RCC can continue to engage our membership through electronic messaging. More information will follow on CASL in the months to come.

All of these initiatives could not be possible without the efforts of the volunteers who make up the CEA:

Steve Pottle, Chair
York University

Carrie Green, Vice Chair
CURIE

Gail Cullen, Secretary
Nalcor Energy

Tino Brambilla, RCC Liaison
Manitoba Hydro

Sasha Alexander
University of Guelph

Stéphane Cossette
Quebecor Media Inc.

Andrew Coward
University of Victoria

Angela Haywood
AltaLink Management Ltd.

Shelley Vandenburg
First Calgary Financial & Credit Union

Finally, I would be remiss if I did not acknowledge the efforts of the following volunteers who contributed to the success of the CEA in 2012: Ginny Brooks, Sun Life Global Investments; Tim Lucko, Province of Manitoba, and Virginia Tutino, Bombardier Transportation.

NATIONAL CONFERENCE COMMITTEE (NCC)

By Karin McDonald, NCC Chair

The purpose and function of the National Conference Committee (NCC) is to act as a resource for each RIMS Canada Conference Local Organizing Committee (LOC) and to serve as a liaison between the LOC and the National Event Planner (NEP) and the RIMS Canada Council (RCC).

The NCC is very pleased to welcome Julie Chapdelaine of Ivanhoe Cambridge (QRIMA Member) to the committee.

The National Conference Programming Committee (NCPC) has now been established as a subcommittee of the NCC and we welcome the following members:

Janet Stein, Chair
University of Calgary

Dave Jackson
Saskatchewan School Boards Association



Back Row: left to right: Dave Jackson, Ren Lips, Pat Ryan, Janice McGraw, Steve Matterson, April Savchuk, Jim Swanson

Front Row: Charlene Roth-Diddams, Julie Chapdelaine, Karin McDonald, Janet Stein, Bev Duthoit

Janice McGraw
McGill University

Jim Swanson
Province of Manitoba

We are still looking for two additional members for the Programming Committee, one from Ontario and one from the

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RCC SubCommittee Updates

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Maritimes or Newfoundland and Labrador. If you are interested, please contact Janet Stein at jstein@ucalgary.ca.

Over the past year, the NCC has met with a number of industry partners and delegates for the purpose of obtaining feedback relative to their overall experience at the RIMS Canada Conference and to identify areas where improvements can be made. The information gleaned from these meetings has led to a number of process changes which include:

- The hosting of conference events within the Exhibit Hall such as the opening reception, coffee breaks, boxed lunches, the distribution of conference apparel and delegate bags, and the holding of various draws that are all designed to increase traffic within the Exhibit Hall.
- The appointment of a deputy contact/resource employed by POP Kollaborative Inc., the Conference National Event Planner (NEP) which will provide additional support to the conference thereby ensuring timely responses to delegate and industry inquiries. It is worthy of mentioning that during 2012, the conference NEP was the recipient of seven (7) combined Gala, Star and Esprit Industry Awards in

Canada which clearly demonstrates their creative and executive management capabilities as premier class “event architects” and skilled to take on the challenges of the RIMS Canada Conference.

- The recently launched National Conference Programming Committee is committed to providing exceptional conference programs at the annual RIMS Canada Conference. The committee’s goals include providing Local Organizing Committees (LOCs) with as much information and advice as needed to have a successful conference. It is also intended to provide standardization for many items related to sessions to ensure that there is a clear and consistent set of guidelines for individuals that wish to participate in the sessions and clear expectations from the members who are taking them.

The NCPC is working on formalizing the process for the widespread call of conference program submissions and an on-line form will be available for use for the 2014 conference. An email will be sent to conference attendees, exhibitors, sponsors and all Canadian members of RIMS when the process goes live, encouraging them to submit ideas. A link will also be available on the conference website.

The NCPC will provide the LOCs with historical session data, a centralized list

of moderators and speaker information to assist in the session selection process. They will also assist the committee with ensuring a conference program balanced for both categories of topics and levels of expertise. A call for program suggestions for a “Hot Topic” session will also go out closer to the conference date.

- We continue to perpetually update the NCC library/central repository with all documentation pertaining to the conference and these documents are accessible by members of the NCC.

The NCC is also reviewing best practices on various conferences from both within and outside of the Risk Management & Insurance industry. The results of this analysis, along with the feedback obtained at the Executive Risk and Insurance Industry Idea Exchange, will form the basis of discussion at the NCC’s strategic conference review later this year.

The NCC welcomes comments from our membership, conference delegates and our industry partners. You may contact any of the NCC members below at your convenience. We look forward to hearing from you.

NCC members:

Karin McDonald, Chair
Hydro One
karin.mcdonald@hydroone.com

April Savchuk, Vice Chair
Catlin Canada
april.savchuk@catlin.com

Pat Ryan, Secretary
Fortis Inc.
pryan@newfoundlandpower.ca

Ren Lips, RCC Liaison
PCL Constructors Inc.
rlips@pcl.com

Steve Matterson, LOC Co-Chair, Victoria Conference 2013
BC Ferries
Steve.Matterson@bcferries.com

Bev Duthoit, LOC Co-Chair, Winnipeg Conference 2014
MTS Allstream
Bev.Duthoit@mtsallstream.com

Julie Chapdelaine, LOC Co-Chair, Quebec City Conference 2015
Ivanhoe Cambridge, Inc.
Julie.chapdelaine@ivanhoecambridge.com

Doug Brown, Past LOC Co-Chair, Saskatoon Conference 2012
City of Regina
dbrown@regina.ca

Janet Stein, Chair, National Conference Programming Committee
University of Calgary
jstein@ucalgary.ca

NATIONAL EDUCATION COMMITTEE (NEC)

By Lynda Lyttle, NEC Chair

The National Education Committee (NEC) met via teleconference in November 2012 and as a group in March 2013 to review the progress of our committee members in achieving the strategic goals and objectives of the RIMS Canada Council (RCC).

We completed our bilingual brochure project promoting both the CRM and RF designations and it was distributed along with the newsletter at the RIMS Canada Conference in Saskatoon.

We continue to work with the various educational institutions across the country to ensure delivery of the CRM program. We have two additional opportunities; one in Ontario and one in Newfoundland that have recently been approved. Programs are to start in September of 2013.

The textbooks used in the CRM program were updated by the Institutes in late De-



Back Row, left to right: Tony Lackey, Roman Parzei, Kate Powers, Vanessa Maclean, Bill Baker, David Beal
Front Row: Jean-Francois Baril, Lynda Lyttle, Betty Clarke, Darius Delon

ember/early January. The English versions are available with integration anticipated by end of June, 2013 for the September 2013 programs. The text books are being translated into French and we expect to have those available by the end of 2013.

With the revision of the textbooks we have taken the opportunity to work with the Global Risk Management Institute, Inc. (GRMI) in developing standard outlines for each course to be used by the instructors, and then a standardized final exam for each

course. We anticipate delivery of both these initiatives in 2014/2015. A huge thank you goes out to our instructors, a dedicated group of risk management and insurance professionals who give of their time to ensure delivery of these programs in an ever changing risk management landscape.

Happy Spring everyone!

Members of the NEC are:

Lynda Lyttle, Chair
Stantec Consulting

Vanessa Maclean, Vice-Chair
The Empire Company

Roman Parzei, RCC Liaison
City of Brampton

David Beal
Ontario School Boards Insurance Exchange

Dariusz Delon
Mount Royal University

Bill Baker
Sofina Foods

Tony Lackey
Carleton University

Jean-Francois Baril
Concordia University

William H. McGannon
Foundation

WILLIAM H. MCGANNON FOUNDATION UPDATE

■ By April Savchuk, Catlin Canada

The McGannon Foundation Board of Directors has kept busy with a flurry of activity over the past year, including many “business as usual” items, as well as a concentrated effort on the planning of various special events in celebration of the Foundation’s 10 year anniversary milestone.

Board of Directors

The Foundation wishes to say “goodbye and thank you” to Joe Hardy, a founding member of the Foundation, as he retires after 10 years of dedicated service. Joe has graciously agreed to continue his involvement with McGannon in the capacity as “Student Ambassador” of the Student Involvement Program, held each year at the RIMS Canada Conference.

New additions to the Board include April Savchuk (Catlin Canada) who joined the Board at the beginning of 2012 and Denis Schaeffer (XL Canada) and Marley Drainville (Enerplus Resources) who both joined in the summer of 2012.

Board members who continue to provide leadership to the Foundation are Mark Robertson (Nexen), Ashley Becker (AON), Wayne Hickey (Methanex) and Joe Restoule (AEGIS).

McGannon Foundation’s 10th Year Anniversary: A Year In Review

The Foundation’s anniversary celebrations during the past year were focused on applauding 10 years worth of accomplishments, giving thanks to donors, volunteers and stakeholders and continuing the generation of interest in the Foundation’s plans, activities and future objectives.

The 10th Year Anniversary celebration was officially launched at the RIMS Canada Night Reception at the 2012 RIMS Conference in Philadelphia, where the Foundation’s 10th year anniversary logo, and, in keeping with the times, the Foundation’s QR code were both un-

veiled. News releases and advertisements were then placed in two national and one regional industry publication in late summer (2012).

Later in September at the RIMS Canada Conference in Saskatoon, a presentation was given at the Awards Luncheon highlighting the Foundation’s mission, beginnings, and its three pillars of purpose and strength; Education, Work Experience and Research. In addition, an update was provided to Foundation supporters and the Foundation’s future goals were addressed.

A special “thank you” luncheon was held in January where key foundation stakeholders were treated to a celebratory event which generated substantial media coverage. A perfect and heartfelt event was even more eventful with RIMS Executive Director Mary Roth attending and bringing with her a \$30,000 cheque from RIMS. The donation was presented to Joe Restoule, President of the McGannon Foundation who stated “Since our inception 10 years ago, RIMS has been one of the key contributors, generously supporting the promotion and development of new risk practitioners in Canada. There is no doubt RIMS’ commitment will take us to new heights in the next decade”.

The year came to a close in very good standing with another incredibly generous donation by the RIMS Canada Council in the amount of \$10,000. The official donation presentation took place at the 2013 RIMS Conference in Los Angeles.

In early February, the Board embarked on its Annual Planning Meetings. Such annual strategic meetings ensure that the Foundation continues to be a well managed charitable organization and that its activities never lose focus of the Foundation’s mandate.

Highlights of the many successes over 2012 include:

- As at December 31, 2012, assets were \$878,381.29 (a 13% increase from June 2012)
- All of the Foundation’s investments are growing positively
- 6 students were sent to the 2012 RIMS Canada Conference
- 10th year anniversary promotions went extremely well with high visibility
- The McGannon Student Forum sponsored by XL and held in Calgary hosted 16 students
- The Fun Run was deemed a success in

Saskatoon

- Three new Board Directors were appointed
- The Foundation has extended its reach to include Mohawk and Conestoga Colleges
- Details on a special 10th Anniversary Doctoral Scholarship were finalized:
 - The Scholarship value (the largest ever awarded) is \$10,000
 - Canadian students must be enrolled in a doctoral program to qualify with the full support of the doctoral advisor
 - The doctoral thesis must address “advancing risk management”
 - A communication blitz with respect to the scholarship will take place including a press release to the trade press, RIMS, and the CIP Society
 - The application deadline has been established for the end of June

Conclusion

The Board of Directors are very pleased with the successes achieved over the past year particularly given the significance of the Foundation’s 10th year anniversary milestone and are committed and engaged in contributing more in 2013 to driving McGannon’s mandate forward:

“to provide funding for the advancement of Risk Management and Insurance to students, organizers and stakeholders”

Organizations in all facets of the insurance and risk management industry are searching for excellent people to be their next generation of leadership. Many of our scholarship and student involvement recipients have already taken their places and are now growing into leaders. The McGannon Foundation is very proud of this success. The Risk Management and Insurance industry has now begun to reap the rewards of the last 10 years of its labour.



RCC Chair Betty Clarke presents donation cheque to McGannon Foundation President Joe Restoule

PERSONAL INFORMATION IN CYBERSPACE – MANAGING THE RISK OF A PRIVACY BREACH

■ By Eileen Vanderburgh, Partner, Alexander Holburn Beaudin + Lang LLP

The recent and well-publicized loss by the federal government of a USB device containing the financial and other personal information of over 500,000 student loan recipients highlights the risk associated with the growth of electronic personal data and the exposure of government and private sector organizations to legal liability for breach of privacy resulting from the loss of individuals' personal information. A class action against the Attorney General of Canada was filed in Federal Court on January 17, 2013 on behalf of the individuals whose information was on the USB device.ⁱ A second action was filed in Federal Court on January 23, 2013.ⁱⁱ The Plaintiffs' claims allege a number of causes of action including breach of statutory duty under the *Privacy Act*ⁱⁱⁱ and the *Personal Information Protection and Electronic Documents Act* ("*PIPEDA*")^{iv}, negligence, breach of contract, breach of fiduciary duty, breach of trust, breach of privacy, intrusion upon seclusion, public misfeasance and breach of section 7 of the *Charter*.

These actions follow on the heels of other class actions commenced in the past year for breach of privacy and a number of investigations conducted by Information and Privacy Commissioners across Canada into privacy breaches by government and the private sector resulting from the loss or theft of laptops and portable hard drives and from unauthorized internal access of personal information. What these actions and investigations reveal is that, for most organizations, the greatest risk for a privacy breach lies not with anonymous hackers but with the failure of the organization to have appropriate security protocols in place for its employees, the failure of its employees to follow security protocols, and the deliberate actions of its employees in accessing personal information for illegitimate purposes.

This article will discuss some recent examples of electronic data losses and privacy breaches, the scope of potential damages, and suggest steps to reduce the risk of a data loss or breach of privacy and

to manage the response to a breach to minimize the potential costs and damages.

Negligence by organization and employees in securing personal information

In December 2009 an employee of the Durham Region Health Department lost a USB device containing the unencrypted personal information of over 80,000 patients. A class action claiming \$40 million in damages and alleging negligence, breach of privacy, breach of fiduciary duty and breach of the *Ontario*

ing services and did not notify credit agencies of the loss. An application to certify a class action in the Quebec Superior Court was dismissed in March 2012.^{viii} Although the Court concluded that there was a *prima facie* case of negligence in the loss of the data tape, the representative Plaintiff was not able to establish that she had suffered compensable damages and the damages alleged to have been suffered by the class members were speculative and unverified.



Personal Health Information Protection Act^v was certified by the Ontario Superior Court of Justice in 2011.^{vi} A settlement of the class action was approved by the Court in July 2012.^{vii} At the time of the settlement it was apparent that the missing USB device was lost and was not in the hands of a potential identity thief. The terms of the settlement provided for a claim period to August 1, 2016 during which the Durham Region Health Department would mitigate any actual economic harm suffered by class members as a result of the loss of the USB device. The settlement did not provide for any cash payments to the class members but did provide for the payment of \$500,000.00 to class counsel.

In March 2008 a data tape containing the confidential financial information of 240,000 customers of Chrysler Financial was lost in transit to a credit reporting agency. The data tape was not encrypted or otherwise password protected, was transferred via regular courier delivery and the courier company was not advised of the sensitive nature of the shipment. Chrysler Financial delayed in notifying the affected customers of the loss of the data tape, did not offer credit monitor-

Intentional breach of privacy by employees

One of the more bizarre cases of breach of privacy involved a claims adjuster with the Insurance Corporation of British Columbia ("ICBC") who improperly accessed the ICBC files of a number of individuals with ties to the British Columbia Justice Institute. Following the improper access some of those individuals became victims of crime, including shootings and arson. In June 2012 a class action was filed in British Columbia Supreme Court against ICBC on behalf of 65 individuals whose personal information had been improperly accessed, alleging breach of privacy at common law, breach of the B.C. *Privacy Act*^{ix}, and breach of the B.C. *Freedom of Information and Protection of Privacy Act*^x.

Two class actions on behalf of patients of the Capital District Health Authority and the South West Nova District Health Authority in Nova Scotia were commenced in April 2012^{xi} and June 2012 following the revelation that Health Authority employees had been improperly accessing electronic patient medical records over several years. The Capital District Health Authority had

instituted an audit process to track access to medical records in 2005 but had not investigated the employee's actions until receiving information about the potential improper access in October 2011. The South West Nova Health Authority discovered the unauthorized access after an investigation conducted in April and May 2012.

Similar class actions were commenced in Newfoundland in August 2012 against three regional health authorities arising from unauthorized employee access to patient medical records.^{xii}

On the regulatory side, Information and Privacy Commissioners have found public bodies in breach of their obligations under provincial privacy and access legislation where employees have improperly accessed, used and disclosed personal information in government databases. Even where the public body has appropriate policies and procedures in place prohibiting unauthorized access to personal information by its employees, the absence of any monitoring or auditing of its systems to track and assess whether employee access is in compliance with those policies is a breach of the public body's duty to adequately secure the information. Private sector organizations governed by *PIPEDA* or provincial private sector privacy legislation^{xiii} have similar statutory obligations with respect to securing personal information from unauthorized internal access and therefore should consider whether they need to monitor employee access and use of their databases.

What are the potential damages?

In most cases^{xiv}, in order to succeed in an individual or class action for breach of privacy, plaintiffs must establish that they suffered damages as a result of the loss of data or breach of privacy by the defendant. As demonstrated in the cases of *Mazzonna v. Daimler/Chrysler* and *Rowlands v. Durham Region Health* discussed above, not every data loss results in damages to the affected individuals. Plaintiffs must be able to establish compensable damages, for example, costs in

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Personal Information ...

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occurred to guard against a real risk of identity theft. Complaints of minor anxiety and inconvenience are not compensable damages. Further, speculative claims for costs that may be incurred to protect against identity theft are not compensable. However, the potential for individual awards to class members for a large-scale privacy breach creates a real risk of a substantial financial liability for organizations and their insurers.

Individuals affected by a privacy breach may have the right to pursue a statutory cause of action for damages under the relevant privacy legislation. The Federal Court may award damages to individuals resulting from an organization's breach of its privacy obligations under *PIPEDA*, including both pecuniary losses, such as credit monitoring costs, and damages for humiliation. The Federal Court has taken a restrained approach to the exercise of its discretion under *PIPEDA* and only awards damages for humiliation in the most egregious of circumstances, with individual awards not exceeding \$5000.00. There are similar provisions allowing individuals to pursue a statutory cause of action for damages for breach of privacy by organizations under provincial private sector privacy legislation. In B.C., for example, the *Personal Information Protection Act* allows for the recovery of pecuniary losses and actual damages.

Although the exposure to damages at common law or under privacy legislation for breach of a single individual's privacy is relatively minimal, the quantum of damages can rapidly escalate for a privacy breach involving hundreds or thousands of individuals. Further, the costs associated with mitigating potential losses and defending a class action arising from a large-scale privacy breach can be substantial.

Managing the risk of data loss and breach of privacy

In the cases noted above involving the loss or theft of data, a consistent factor is the storage and transport of unencrypted sensitive personal information on portable devices. At a minimum, organizations holding personal information of customers, clients or members of the public are required to encrypt the information and use robust passwords to protect the information from unauthorized access. The failure to take these basic steps is both a breach of the organization's statutory obligations and a breach of the organization's duty of care to the individuals affected.

Organizations should have appropriate security and access policies in place that

are proportionate to the sensitivity of the personal information held by the organization. The policies should address the storage of personal information on portable devices, including when the use of portable devices is permitted and the specific security arrangements that must be employed.

The use of cloud computing can reduce or eliminate the need to have data stored and transferred on portable devices. However, organizations using cloud computing services must ensure that any personal information stored with a cloud provider is secured and protected from unauthorized access. Appropriate contract language should be used to address security of the personal information, access to and use of the information by the cloud provider, use of appropriate authentication controls, the use of encryption, procedures in the event of a breach, and the ability to audit the cloud provider's performance.

Organizations using cloud computing services based outside of Canada should ensure that their customers are advised that their personal information will be stored and accessible from outside Canada. In British Columbia, public bodies are required to store and access personal information within Canada^{xv} and therefore cannot use cloud service providers based outside Canada. Organizations providing services to B.C. public bodies must also comply with the "only in Canada" requirement for any personal information they have in relation to the services provided to the public body.

As noted above, a common scenario in breach of privacy cases in the government sector is the unauthorized access by employees to databases containing sensitive personal information. Under public sector privacy legislation, governments and public bodies are required to monitor employee access to ensure that their security and access policies are being followed. The risk of unauthorized employee access is also present for private sector organizations, as was demonstrated in the *Jones v. Tsige*^{xvii} case where a bank employee improperly accessed a bank customer's personal information over a three year period. Although the bank was not sued as a result of the privacy breach, the fact that the bank employee was able to continue the unauthorized access over a long period of time without detection by the bank suggests the absence of any monitoring of employee access by the bank. Organizations with electronic databases should have in place employee access policies that prohibit access for other than legitimate work purposes and enforce those policies

through regular system monitoring and appropriate discipline of employees who breach the policies.

Once a data loss or privacy breach has occurred, the steps taken in response can limit or avoid the costs of litigation, including class actions, and the potential damages. The first step is notifying the affected individuals of the breach. Although organizations are sometimes reluctant to notify affected individuals for fear of encouraging litigation, a failure to notify or delay in notification may drive affected individuals to litigation and may delay appropriate steps in mitigation of any damages, such as credit monitoring. In some provinces, organizations are required to report privacy breaches to the appropriate Privacy commissioner.^{xviii}

A June 2012 analysis of 230 data breach cases filed in the United States federal courts from 2000 to 2010^{xviii} revealed that the chances that an organization would be sued as a result of a data breach were 3.5 times higher in cases where the individuals suffered financial harm. However, when the organization offered free credit monitoring following a data breach the chances that the organization would be sued were 6 times lower than cases where no credit monitoring was offered.

Where warranted, organizations should consider immediately offering credit monitoring services to individuals affected by a data loss or privacy breach. Credit monitoring not only helps to demonstrate good will towards the organization's affected customers but also may result in limiting the potential damage in the event the information is in the hands of an identity thief.

In the case of the lost USB device containing unsecured student loan data, the government's privacy protections and response to the loss of the device was wholly inadequate. The loss occurred on November 5, 2012 and was not reported to the appropriate internal department until mid-November. The loss was eventually reported to the RCMP on January 7, 2013. Individuals who may have been affected by the loss were notified through a press release from the Minister on January 11, 2013, two months after the USB device was lost. On February 1, 2013 the government announced it was providing free credit monitoring to the affected individuals for a period of 6 months.

To date there have been no reports of any fraudulent financial activity in relation to the individuals affected by the breach. If the device remains lost and is not in the hands of an identity thief, the likelihood of the class action succeeding or even proceeding is low given the difficulty in

establishing damages. Despite the potential for a positive outcome, the breach and its aftermath have exposed serious weaknesses, both in the manner in which the federal government manages and secures personal information and in its response to a significant breach of privacy involving sensitive personal information.

Organizations looking to establish best practices in protecting their databases and managing the risks of a privacy breach should treat this case as a cautionary tale of how the failure to establish and follow appropriate policies and procedures around the security of personal information can lead to potentially devastating consequences for the reputation and finances of the organization.

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i Pennell et al v. Attorney General of Canada, FC No. T-132-13 (Statement of Claim)

ii Walker et al v. Attorney General of Canada, FC No. T-166-13 (Statement of Claim)

iii Privacy Act, R.S.C. 1985 c. P-21

iv Personal Information Protection and Electronic Documents Act, S.C. 2000, c.5

v Personal Health Information Protection Act, 2004, S.O. 2004, c. 3, Schedule A

vi Rowlands v. Durham Region Health, et al, [2011] O.J. No. 1864, modified at [2011] O.J. No. 1710

vii Rowlands v. Durham Region Health, et al, 2012 ONSC 3948

viii Mazzonna v. Daimler/Chrysler Financial Services Canada Inc., 2012 QCCS 958

ix Privacy Act, R.S.B.C. 1996, c. 73

x Freedom of Information and Protection of Privacy Act, R.S.B.C. 1996, c. 165

xi Moore v Capital District Health Authority, SCNS HFX No. 390420 (Notice of Action and Statement of Claim, April 5, 2012)

xii Thompson v Central Regional Health Authority, SC Nfld, No. 2012-0360176 CP (Statement of Claim); Taylor v Eastern Regional Health Authority, SC Nfld, No. 2012 01 G4305 CP (Statement of Claim); and Hynes v. Western Regional Health Authority, SC Nfld, No. 2012 04 G-0180 (Statement of Claim).

xiii See for example, Order F2013-06, Service Alberta, Office of the Information and Privacy Commissioner, Alberta. (February 15, 2013, Case No. F6167) where an employee improperly accessed and then disclosed an individual's personal information to someone who used it to harass the individual.

xiv General private sector privacy legislation: in British Columbia, the Personal Information Protection Act, S.B.C. 2003, c. 63; in Alberta, the Personal Information Protection Act, S.A. 2003, c. P-6.5; and in Quebec, the Act Respecting the Protection of Personal Information in the Private Sector, R.S.Q. c. P-39. Health sector privacy legislation: in Ontario, the Personal Health Information Protection Act, S.O. 2004, c. 3, Schedule A; in New Brunswick, the Personal Health Information Privacy and Access Act, S.N.B., c. P-7.05; and in Newfoundland and Labrador, the Personal Health Information Act, S.N.L. 2008, c. P-7.01

xv In British Columbia, a violation of privacy within the parameters of the B.C. Privacy Act is actionable without proof of damages.

xvi Section 30.1, Freedom of Information and Protection of Privacy Act, R.S.B.C. 1996, c. 165

xvii Jones v. Tsige, 2012 ONCA 32

xviii For example, under the Alberta Personal Information Protection Act, organizations are required to report privacy breaches where there is a risk of significant harm to the affected individuals.

xix Romanosky S., Hoffman D., and Acquisiti, A. (2013) "Empirical Analysis of Data Breach Litigation," iConference 2013 Proceedings (pp. 124-137)

RIMS 2013, LOS ANGELES, CA

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CANADIAN AWARD WINNERS STAND OUT IN LOS ANGELES

By Bonnie Wasser

Canadian chapters and volunteers shone brightly at the RIMS Annual Conference Awards Luncheon in Los Angeles on April 22.

Our current RCC National Conference Committee Chair, Karin McDonald, received the Ron Judd “Heart of RIMS” award. The Award pays tribute to the legacy of Ron Judd, who served as RIMS executive director for 22 years. Individuals are nominated by chapters for outstanding performance in furthering risk management at the chapter level. Karin was honoured for over twenty years of ongoing volunteer leadership, serving in many capacities including President of both the Canadian Capital and Ontario RIMS chapters, and committee service and chairmanship at the chapter, RCC and RIMS levels.

Canadian chapters were recognized with both Membership Growth and Chapter Achievement awards. The Northern Alberta and Saskatchewan chapters received Membership Superstar Awards for in-

creasing their membership 9% or more in 2012. The Newfoundland and Labrador, Quebec and Southern Alberta chapters all increased their membership between 6 and 8.9%, earning them Membership Star Awards. The Southern Alberta chapter also received a Student Membership Superstar Award for increasing their student membership by 9% or more. The Ontario chapter won a Chapter Achievement Award in the area of Communication, Newsletters.

Congratulations to Karin and to all of our award winning chapters – we are proud of you!



RIMS Executive Director, Mary Roth (left) and RIMS president John Phelps (right) present Karin McDonald, Hydro One (centre) with the Ron Judd Heart of RIMS Award.

RIMS MEMBERS SPEAK AT CCCA CONFERENCE

On April 16th, Canadian RIMS members participated in a panel discussion, at the Canadian Corporate Counsel Association (CCCA) Spring Conference. The session entitled, Joining Forces: Building Effective Relationships with your Risk Management Department provided the audience with real-life examples of how effective strategic risk management requires a cooperative and consultative partnership between In-house Counsel and the Risk Prac-



Left to right: Francoise Guenette, SVP Corporate & Legal Services, Intact Financial Corporation, Melissa Ferreira, Risk Manager, TTC, Christine Silversides, Director Legal Services, York University, Dulce Mitchell, Solicitor, TTC, Steve Pottle, Director Risk Management Services, York University

itioner. This session was the most popular of all the conference and in-house survey of the delegates felt that risk management was the most important part of their role in their respective organizations.

Editorial Policy

The RIMS Canada Newsletter is a publication of the RIMS Canada Council and is published periodically throughout the calendar year. The opinions expressed are those of the writers and volunteer members of the RIMS Canada Newsletter Editorial Committee. Articles submitted to the RIMS Canada Newsletter for publication are subject to the approval of the RIMS Canada Newsletter Editorial Committee. Approval of such articles is based on newsworthiness, and perceived benefit to the readership. All decisions of the RIMS Canada Newsletter Editorial Committee are final and not subject to appeal. Individuals submitting articles to the RIMS Canada Newsletter hereby acknowledge their acceptance of the RIMS Canada Newsletter Editorial Policy.

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The RIMS Canada Newsletter
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