

**Rules of Procedure of the Discipline Committee of the
Registered Insurance Brokers of Ontario ("RIBO")**

Rule 1 - Interpretation and General

1.1 The Discipline Committee Rules of Procedure (the "Rules") govern proceedings before the Discipline Committee in accordance with the *Registered Insurance Brokers Act*, R.S.O. 1990, c. R.19 (the "Act"), the Regulations thereto, and RIBO's By-Laws and Policies.

1.2 The purpose of these Rules is to promote an efficient, fair, and transparent process for Discipline Proceedings.

1.3 These Rules are to be interpreted in a manner that is consistent with the Act, Regulations, By-Laws and Policies.

1.4 In the event of a conflict between the Act, Regulations, By-Laws and Policies, the Act shall have precedence, followed by the Regulations, By-Laws and Policies.

1.5 These Rules shall be interpreted in a manner that results in an efficient, fair and transparent discipline process and shall be liberally construed in a manner to give effect to their purpose.

Rule 2 - Definitions

"Chair" means the member of the Discipline Committee presiding over a Pre-Hearing Conference, Motion, or Hearing as the case may be.

"Day" means a business day and does not include Saturdays, Sundays or statutory holidays.

"Deliver" means to provide or serve a document or documents on a party or the Legal Coordinator in accordance with these Rules.

"Document" includes a sound recording, video tape, electronic media, paper writing and printing, file, photograph, chart, graph, plan, map, survey, book of account and information recorded or stored by means of any device.

"Electronic Hearing" means a Hearing which takes place by videoconference or other electronic means.

"Filed" means delivery of documents to the Legal Coordinator of RIBO.

“Hearing Panel” means the panel of the Discipline Committee presiding over a motion or a hearing of allegations of misconduct or incompetence.

“In-Person Hearing” means a Hearing which takes place in person on the premises of RIBO or as otherwise directed by a Pre-Hearing Conference Chair.

“Independent Legal Counsel” means legal counsel who provides procedural and/or legal advice to the Hearing Panel.

“Legal Coordinator” is a designated staff member of RIBO who may coordinate logistical matters for a Proceeding and is the person to whom Parties should send documents to be filed.

“Licensee” means an individual or brokerage member under the Act.

“Motion” means a request to the Discipline Committee for an order or direction in accordance with these Rules.

“Representative” means, a person authorized under the *Law Society Act* and in good standing with the Law Society of Ontario (“LSO”).

“RIBO Legal Counsel” means legal counsel retained by RIBO to represent it in a Proceeding.

“Panel Member” means a broker or public member of a Hearing Panel.

“Party” refers to RIBO and the broker and/or brokerage subject to a Proceeding.

“Pre-Hearing Conference” means a conference convened pursuant to Rule 7.

“Proceeding” includes all aspects of a matter referred to the Discipline Committee, including any Pre-Hearing Conference, Motion, and a Hearing on the merits of allegations.

“Proof of Delivery” means an Affidavit, or other form as prescribed, confirming delivery of a notice or document in accordance with these Rules.

Rule 3 - Representation

3.1 A licensee may be represented by themselves in a proceeding or by a Representative.

3.2 In the case of a brokerage, the principal broker may represent the brokerage licensee.

3.5 Where a licensee is represented by a Representative, all communications from the Legal Coordinator and RIBO Counsel with respect to a Proceeding shall be directed to Representative.

Rule 4 - Calculation of Days

4.1 Where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, even if they are described as clear days or the words “at least” are used.

Rule 5 - Duties and Powers of the Discipline Committee

5.1 The composition, duties and powers of the Discipline Committee are those set out in Sections 17 and 18 of the Act.

5.2 Three (3) members of the Discipline Committee, at least one of whom will be a public member, shall constitute quorum for a Hearing.

5.3 The powers of the Discipline Committee where it finds a licensee guilty of misconduct or incompetence are those set out at Section 18(5) of the *Registered Insurance Brokers Act*, R.S.O. 1990, c. R.19 and are as follows:

- (a) Revoke the certificate of the licensee;
- (b) Suspend the certification of the licensee for a stated period;
- (c) Impose such restrictions on the certificate of the licensee for such a period and subject to such conditions as the Committee designates;
- (d) Reprimand the licensee and, if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) Impose such a fine as the Committee considers appropriate to a maximum amount prescribed in the regulations to be paid by the licensee to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (f) Direct that the imposition of a penalty be suspended or postponed for such period and on such terms as the Committee designates;
- (g) Impose a requirement that the licensee reimburse any person who made a complaint against the licensee for any costs incurred by such person in the proceedings;
- (h) Or any combination of the above.

Rule 6 - Presumption of Electronic Process

6.1 All aspects of a Proceeding shall be presumed to be electronic unless otherwise ordered.

6.2 All documents in the Proceeding, including any notices and documents to be relied on at a Hearing, shall be delivered and/or filed electronically.

6.3 Pre-hearing conferences shall take place by phone or video conference.

6.4 Motions and Hearings shall be held by video conference.

6.5 A party who seeks to have a Hearing proceed in person must raise the request at the Pre-Hearing Conference.

Rule 7 - Pre-Hearing Conference

7.1 The Parties are required to attend the Pre-Hearing Conference, which shall be arranged by the Legal Coordinator.

7.2 Pre-Hearing Conference Chair

7.2.1 A single member of the Discipline Committee will act as Pre-Hearing Conference Chair.

7.2.2 The Pre-Hearing Conference Chair shall not be a member of the Hearing panel except on the consent of the parties.

7.3 Orders Made at a Pre-Hearing Conference

7.3.1 The Pre-Hearing Conference Chair may make procedural orders for the efficient and fair hearing of the matter, including but not limited to orders regarding disclosure, witnesses, the scheduling of any motions, whether the hearing shall be held in person or electronically, the scheduling of a further pre-hearing conference and/or scheduling the dates for the Hearing.

7.3.2 The Parties shall comply with any orders made by the Pre-Hearing Conference Chair and with all other Rules herein as applicable to the Proceeding and the Hearing.

7.4 A Pre-Hearing conference shall not be open to the public and, except for any orders, directions, agreements and undertakings made at a pre-hearing conference, it shall proceed on a without prejudice and confidential basis.

7.5 Either party may make a request for a further Pre-Hearing Conference by written request to the Legal Coordinator.

Rule 8 - Notice of Hearing

8.1 A Notice of Hearing shall be delivered to the Licensee by the Legal Coordinator once a date is scheduled.

8.2 A Notice of hearing shall contain a summary of the allegations against the Licensee, as well as the date and time of the Hearing.

8.3 Amendment to Notice of Hearing

8.3.1 Either party may request that the Discipline Committee amend the Notice of Hearing to correct any typographical errors on the Notice of Hearing, including errors with respect to sections of the Act or the Code of Conduct, as a preliminary matter to be addressed at a Hearing.

8.3.2 Further to a request made under Rule 8.3.1., or on its own initiative, the Discipline Committee, may make any amendments necessary to correct a Notice of Hearing.

Rule 9 - Hearings Open to the Public

9.1 Hearings are open to the public unless otherwise ordered.

Rule 10 - Disclosure

10.1 RIBO shall disclose to the Licensee all materials, which will be produced at the Hearing, and any other documentation required to be disclosed by law, by a date agreed to by the Parties or fixed at a Pre-Hearing Conference.

10.2 The Licensee or their legal counsel shall disclose all documentary materials on which they intend to reply at the Hearing by a date agreed to by the Parties or fixed at a Pre-Hearing Conference, either of which shall be at least ten (10) days before the Hearing.

10.3 If a party fails to comply with the Disclosure obligations set out at Rule 10.1 or 10.2 above, the party may not refer to or enter in to evidence at the hearing, the document or the evidence of the witness, as the case may be, without the approval of the Discipline Committee, which may be given on such terms and conditions as the Discipline Committee considers just.

Rule 11 - Delivery and Filing of Documents and Materials

11.1 All documents and materials exchanged between the Parties shall be delivered electronically by e-mail or as set out in any order made further to a Pre-Hearing Conference.

11.2 Each Party shall deliver to the other(s) and file electronically by e-mail, along with proof of delivery, with the Legal Coordinator the documents on which it intends to rely at the Hearing at least five (5) days before the commencement of the hearing or as ordered at a Pre-Hearing Conference.

11.3 Where a Hearing is proceeding on the basis of an agreement between the parties, the parties shall file with the Legal Coordinator an Agreed Statement of Facts and Joint Submission on Order at least one (1) day before the Hearing. The parties may also file a Written Plea Inquiry and/or any other document they deem relevant to the Agreement Hearing.

Rule 12 - Failure to Participate

12.1 Where the Discipline Committee, through the Legal Coordinator, has delivered a Notice of Hearing in accordance with these Rules and the Licensee does not participate in the Hearing, the Hearing may proceed in the absence of the licensee.

12.2 For the Hearing to proceed in the absence of the Licensee, RIBO shall file proof of delivery of the Notice of Hearing on the Licensee in accordance with these Rules and the requirements of the Act and/or Regulations.

Rule 13 – Motions

13.1 Motions Prior to the Hearing

13.1.1 A motion made before the commencement of a Hearing may be heard and decided by a single member of the Discipline Committee, who may be the Pre-Hearing Conference Chair.

13.1.2 The motion shall be made by Notice of Motion which shall set out the grounds for the motion and the relief the applicant is requesting. The motion shall also include a supporting affidavit which must include the evidence to be relied in support of the motion.

13.1.3 The Notice of Motion, including any supporting evidence and materials, must be delivered on the other party at least ten (10) days before the date of the hearing of the motion.

13.1.4 The responding party may deliver any evidence they intend to rely on at the motion in an affidavit format which may include attached documents at least four (4) days before the motion.

13.1.5 A party bringing a motion must consult the other party with respect to available dates. Motion dates are to be requested through the Legal Coordinator.

13.1.6 A member of the Discipline Committee who hears a pre-hearing motion, may not sit on the Hearing Panel without the consent of the Parties.

13.2 Motions at or After Commencement of the Hearing

13.2.1 From time to time, a party may seek to bring a motion at or after the commencement of the Hearing.

13.2.2 The Hearing Panel shall make any determinations necessary for the hearing of such motion in keeping with these Rules.

13.3 Motion for Adjournment on Consent in Advance of the Hearing

13.3.1 Parties may seek an adjournment on consent no later than one (1) day in advance of the Hearing by emailing the Legal Coordinator providing:

- (a) A brief description of the reason(s) for requesting the adjournment;
- (b) Proposed dates that are mutually agreeable to the Parties for the Hearing to take place.

13.3.2 The Legal Coordinator shall confirm with the Parties whether the Hearing Panel will permit the adjournment. If the Adjournment is permitted, the Legal Coordinator will confirm the date on which the Hearing will proceed.

13.5 Motion for Publication Ban

13.5.1 If a Party seeks a publication ban, including a ban on publication of any findings or penalty that may be imposed by the Discipline Committee, such motion will be heard at the outset of the Hearing.

13.5.2 The Party bringing the motion for the publication ban must specify the relief being sought, including the specific scope of the proposed ban.

13.5.3 The Motion for the publication ban must be served on the other Party and filed with the Legal Coordinator at least ten (10) days before the Hearing date.

13.5.4 The Party responding to the motion for the publication ban must serve on the other Party and file with the Legal Coordinator their motion materials at least four (4) days before the Hearing date.

Rule 14 - Language and Interpretation

14.1 The Hearing shall be in English or French at the election of the Licensee.

14.2 Where the Panel Members or any witness require interpretation from one official language to the other, the cost of certified interpretation shall be borne by RIBO.

14.3 Where translation of language other than English or French is required, the party tendering the witness requiring translation must provide a certified independent translator at their own cost.

Rule 15 - Evidence Generally

15.1 Evidence shall be admissible as set out in the Act, the Regulations thereto and as may be noticed under sections 15, 15.1, 15.2 and 16 of the *Statutory Powers Procedure Act*, 2017, c. 34, Sched. 36, s. 5 (2).

15.2 The Discipline Committee shall not admit any evidence that would be regarded by a court as inadmissible because it falls within a recognized privilege.

Rule 16 - Witnesses

16.1 Witnesses shall be formally sworn or affirmed prior to giving their evidence.

16.2 Witnesses will be examined in chief by the tendering party and then will be cross-examined by the opposing party.

16.3 A witness may be re-examined following cross-examination and the Hearing Panel may exercise its discretion with respect to the scope of any re-examination.

16.4 With the exception of the Licensee, who may also be a witness, and any expert witnesses, witnesses shall be excluded from the Hearing until after such time as their evidence has been given.

Rule 17 - Expert Evidence

17.1 Expert Report to be Delivered and Filed

17.1.1 A Party that wishes to rely on an expert witness must deliver to the other Party and file with the Legal Coordinator an Expert Report no later than 30 days before the commencement of the Hearing.

17.1.2 The Expert Report must contain: a clear scope; the expert's C.V.; and a confirmation by the expert that their duty is to the Hearing Panel, the form of which may be prescribed by the Discipline Committee further to these Rules

17.2 Responding Expert Report to be Delivered and Filed

17.2.1 A Party who wishes to deliver a responding Expert Report must deliver it to the other Party and file it with the Legal Coordinator no later than ten (10) days before the commencement of the Hearing.

17.2.2 The Responding Expert Report must contain: a clear scope; the expert's C.V.; and a confirmation by the expert that their duty is to the Hearing Panel.

17.3 The Hearing Panel will have discretion in determining whether to qualify a witness tendered by a Party as expert and whether to permit expert evidence to be admitted at the Hearing.

Rule 18 - Transcripts of Hearings

18.1 All hearing will be transcribed by a Court Reporter.

18.2 Transcripts shall be made available to any party at their own cost.

Rule 19 - Orders, Decisions and Reasons

19.1 Subject to an order made under Rule 13.5, all Orders and Decisions and Reasons of the Discipline Committee shall be published.

19.2 The Discipline Committee may at any time, on its own initiative or at the request of any Party, correct typographical or calculation errors in an Order and/or Decision and Reasons.

19.3 The Discipline Committee may at any time, on its own initiative or at the request of any Party, amend the wording in its Order and/or Decision and Reasons for the purpose of clarifying the meaning of the Order and/or Decision and Reasons.

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