



COVID-19  
RESOURCE GUIDE



# RISK MANAGEMENT STRATEGIES

FOR THE GOLF INDUSTRY AMID COVID-19



Sport Law & Strategy Group

# Speakers

## **Garrett Ball, CPA, CA, Chief Financial Officer - Golf Canada**

Garrett joined Golf Canada in 2012 after spending 8 years in assurance services at PwC LLP. He was part of PwC's Pension Centre of Excellence and provided services to many significant international companies. He is a Chartered Professional Accountant (CPA, CA) and is currently the Chief Financial Officer at Golf Canada while also serving as a staff representative on the Investment and Audit & Risk Management Committee. Garrett oversees the departments of Finance (and Investments), Human Resources, IT, Administration (legal & compliance), Heritage and Facilities. Garrett spent a decade as an active business advisor and grant review committee member to Economic Development Hamilton's Starter Company Program. He lives in Burlington with his wife and two young children. He and his wife are members at Rattlesnake Point Golf Club in Milton.



## **Adam Helmer, Senior Director, Golf Services – Golf Canada**

With over 15 years of experience in the sport industry, Adam worked with the Grey Cup Committee and Toronto Argonauts Football club before joining Golf Canada in 2008. He has served as the Tournament Director for over 50 national, international and professional golf competitions, and has officiated at over 30 professional events with the PGA TOUR, USGA, R&A, and the LPGA Tour. He is currently the Senior Director of Golf Services with Golf Canada and is responsible for overseeing departments of Amateur Competitions, Rules & Amateur Status, Handicap and Course Ratings and the full Membership Services team. Adam grew up in Ottawa and now lives in Oakville with his wife and twin girls. They are members at Rattlesnake Point Golf Club in Milton.



## **Duncan Ross, BComm, CIP, CRM, RPLU, Commercial Account Executive, Cowan Insurance Group**

Duncan has over 15 years' experience in the insurance industry with diverse roles including underwriting, claims and broker services. This provides him with a holistic view of the industry and a unique ability to meet client's needs. Over the last 9 years Duncan has worked in Cowan's Brantford office handling large national and international accounts, specializing in the not for profit and sports industries. As a passionate member of the community, Duncan sits on a number of advisory committees with the City of Brantford, has chaired the Young Professional Committee with the local Chamber of Commerce, as is a Past President with both the Brant Waterways Foundation and Brant Cycling Club. Outside of the office Duncan competes as an elite endurance athlete who has competed in races around the world, including the 2016 and 2019 Ironman World Championships in Kailua Kona, Hawaii.



# Speakers

## **Ashley Chinner, SVP Canada & Director of Golf, Signature Risk Partners Inc.**

Ashley was a touring golf professional and was a member of the PGA of Canada for 15 years. Ashley has played Professional golf in 25 countries, 40 states, 10 provinces and is a past champion of the Canadian PGA Championship. In 2001, Ashley joined the insurance industry and since that time he has been instrumental in working with leading golf clubs across the country to develop risk management plans and assess their specific insurance needs. In his role at Signature Risk Ashley is responsible for the growth of Signature Golf across the country as well as the growth of the Central Region. Ashley is an active member at Coppinwood Golf Club in Uxbridge, Ontario and he lives with his family near Toronto.



## **Steven Indig, LL.B., Partner, Sport Law & Strategy Group**

Steve Indig, BRec, LLB, began his career with the Sport Law & Strategy Group in 2003 immediately after being called to the bar as a lawyer. Steve has had the opportunity to work with over 650 national, provincial, and local sport organizations providing consulting and legal services related to governance, employment, contracts, policies, disputes, and privacy. Steve graduated from Dalhousie University with a Bachelors of Recreation degree and a successful five-year career as varsity athlete in swimming. Steve attended three CIS National Championships, was named the CIS athlete of the month, and qualified for the 2000 Olympic Trials. He continues to be involved in swimming as a master's swimmer (Canadian Masters Swimming medalist). Steve was inducted into the Yarmouth, Nova Scotia Sports Hall of Fame in 2007. During the early years of his career, Steve was certified by the NFL, CFL, MLS, and FIFA to represent professional athletes as a sports agent. He continues to be involved in sport as an athlete in swimming, hockey, basketball, softball and golf; and recently won a bronze medal in the 2013 Maccabi Games in Israel playing basketball. Steve is also the proud father of a son and daughter.



## **Eric Higgins, Commercial Account Executive, Cowan Insurance Group**

Eric joined Cowan Insurance back in 2013 as a Commercial Account Executive. He has experience with a wide range of clients from small businesses to large multi-national corporations. This experience allows him to stay current in a variety of industries and ensure his clients are well looked after. Prior to joining Cowan, Eric spent many years within the golf industry. His first experience goes all the way back to a young age and learning the game. During his time in high school, he was given the opportunity to work at a new up and coming golf course. After high school he attended Humber College and The Golf Academy of America in Myrtle Beach, South Carolina where he earned a degree in Business Golf Course Operations Management. Upon his return to Canada, he worked as an Assistant and Associate Golf Professional after obtaining his professional status and earned membership into the PGA of Canada, where he held that credential for 6 years.



# Features of the Platform

# Agenda

- **Insurance Industry's Response to COVID-19**
- **FORE! Evolving Liability Exposures for Golf Courses**
  1. Directors' & Officers' Liability
  2. Employment Practices Liability
  3. Employer's Liability
  4. General Liability



# Insurance Industry's Response to Covid-19

- Insurance industry's position
- Payment options
- Revised revenue estimates
- Business Interruption & Extra Expense claims
- <https://www.cowangroup.ca/ci-covid-resources/>



# FORE! Evolving Liability Exposures for Golf Courses

1. Director's & Officers' Liability (D&O)
2. Employment Practices Liability (EPL)
3. Employers Liability
4. General Liability (GL)

# Directors' and Officers' Legal Responsibilities

- Outlined in the Canada Business Corporations Act (CBCA), provincial corporations acts, and numerous other statutes
- Specific Duties:
  - **Duty of Care** – exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances
  - **Duty of Obedience** – comply with the governing documents of the corporation
  - **Fiduciary Duty** – act honest and in good faith with a view to the best interest of the corporation



# Directors' and Officers' Liability

- Covers allegations of a 'wrongful act' that results in financial losses
- Evolving exposure around 'Emergency Preparedness'
- Solution: Business Continuity Plans (BCP)

# Business Continuity Plans

## Steps:

1. Understanding the Business
2. Conducting a business impact analysis (BIA)
3. Performing a risk assessment
4. Developing the continuity plan
5. Implementing the continuity plan
6. Building a BCM/BCP culture
7. Maintaining and updating the plan

# Employment Law

- Employment Standards Act and Contract Law
- Examples include: wrongful dismissal, sexual harassment, discrimination, invasion of privacy, breach of contract, etc.

# Employment Practices Liability

- Typically included in D&O policies
- Duty to defend vs. Reimbursement Coverage
- Solution: Consult with legal and D&O insurance experts

# Employer's Liability

- Liability against an employer arising from allegations of negligence causing bodily injury to an employee
- Provincial workers compensation & employer's liability

# Employer's Liability

- Coverage typically included in General Liability policies
- Solution: Operational Best Practices designed for COVID-19
  1. Stagger starting times and/or institute teams
  2. Have staff work independently, but ideally in pairs
  3. Keep doors open
  4. Minimize sharing of tools
  5. Regular sanitizing of high touch surfaces
  6. Have written policies & procedures and provide training

# General Liability Exposures

- Allegations arising from incidents of third party bodily injury
- Occupier's Liability Act
- Standard of care

# General Liability Insurance

- Premises liability
- Participant coverage / exclusion
- Evolving exposures arising from COVID-19
- Solution:
  - Signature E-Waivers
  - Operational Best Practices
  - Documentation



## **WAIVER AND RELEASE OF LIABILITY**

**WARNING: THIS AGREEMENT WILL AFFECT YOUR LEGAL RIGHTS, READ IT CAREFULLY**

### **Every person MUST read and understand this waiver and release before participating in club activities**

1. By signing below, I confirm that I am the individual named below, and that I have read and understand this Waiver and Release.
2. I understand that this Waiver and Release is made for the benefit of [insert organization], and each of its directors, officers, employees, volunteers, coaches, officials, business operators, agents, and site property owners or occupiers (collectively, the "Organization").
3. I understand that there are inherent risks ("Risks") associated with each of the following activities ("Activities"):
  - the game of golf,
  - the use of golf equipment and/or power carts, whether rented or purchased from the Organization, or my own,
  - the use of Organization's facilities, and
  - participation in sports, fitness, instruction, food & beverage services, and other activities, services, programs or events provided or organized by the Organization.
4. I am aware that the Risks include, but are not limited to, the potential for serious personal injury, death, or property damage. I understand the Risks may be relative to my own state of fitness and health (including physical, mental and emotional), and to the awareness, care and skill with which I conduct myself.
5. I freely accept and fully assume all responsibility for all Risks and possibilities of personal injury, death, property damage or other loss resulting from my participation in the above described Activities. I accept these Risks and agree to the terms of this Waiver and Release, even if the Organization is found to be negligent or in breach of any duty of care or any obligation to me in my participation in the Activities.
6. In addition to consideration given to the Organization for my participation in Activities, I and my heirs, next of kin, executors, administrators and assigns (collectively my "Legal Representatives"), agree:
  - to waive all claims that I have or may have in the future against the Organization;
  - to release and forever discharge the Organization from all liability for all personal injury, death, property damage or other loss resulting from my participation in Activities due to any cause, including but not limited to negligence (failure to use such care as a reasonably prudent and careful person would use under similar circumstances) either passive or active, breach of any duty imposed by law, breach of contract or mistake or error of judgement of the Organization;
  - to release and forever discharge the Organization from all liability for all personal injury, death, property damage or other loss resulting from any infectious disease, virus, bacterium or other microorganism (whether asymptomatic or not); or
  - to release and forever discharge the Organization from all liability for all personal injury, death, property damage or other loss resulting from Coronavirus (COVID-19) including any mutation or variation thereof; or
  - to release and forever discharge the Organization from all liability for all personal injury, death, property damage or other loss resulting from Pandemic or epidemic, as declared as such by the World Health Organization or any governmental authority, and
  - to be liable for and to hold harmless and indemnify the Organization from all actions, proceedings, claims, damages, costs, demands including court costs and costs on a solicitor and client basis, and liabilities of whatsoever nature or kind arising out of or in any way connected with my, or my guests' participation in Activities.
7. I agree that this Waiver and Release and all terms contained within are governed by the laws of the Province or Territory in Canada in which the Activities occur. I hereby irrevocably submit to the exclusive jurisdiction of the courts of that Province or Territory. Any litigation to enforce this Waiver and Release must be instituted in the Province or Territory in which the Activities occur.
8. I confirm that I have had sufficient time to read and understand each term in this Waiver and Release in its entirety, and have agreed to the terms freely and voluntarily. I understand that this Waiver and Release is binding on myself and my Legal Representatives. I confirm that I have reached the age of majority in the Province or Territory in which the Activities occur or will occur.

**Date:** April 28, 2020

# Operational Best Practices Designed for COVID-19

1. Signage through property
2. Ideally use only every other parking spot
3. No walk up tee times
4. Use an e-waiver
5. Prevent access to/ use of non-essential facilities and equipment – carts, rakes, ball washers, benches, etc.
6. Flags must stay in the hole at all times
7. Enforce the rules with zero tolerance

# Document, Document, Document

- This is a critical aspect to your defense
- 2 year statute of limitations

<b>CHECKLIST   WASHROOM MAINTENANCE</b>						
Presented by Cowan Insurance Group Ltd						
Date:	Review conducted by:					
We are committed to providing a pleasant experience for our customers. Please contact the manager listed below if the cleanliness of this washroom does not meet your expectations.						
<i>Please initial after each inspection.</i>						
DISINFECT AND DRY	6:00 AM	9:00 AM	12:00 PM	3:00 PM	6:00 PM	9:00 PM
Floor						
Sinks						
Mirrors						
Stalls						
Toilets						
Urinals						
Hand Dryers						
Towel Dispensers						
Trash						
Baby Changing Station						
Light Switches						
Door Handles						
Counters						
Tissue Receptacles						
Towel Bars and Grab Bars						

This checklist is merely a guideline. It is neither meant to be exhaustive nor meant to be construed as legal advice. It does not address all potential compliance issues with federal, provincial or local standards. Consult your licensed commercial property and casualty representative at Cowan Insurance Group Ltd or legal counsel to address possible compliance requirements. © 2017 Zynex, Inc. All rights reserved.



# Recap

- **Insurance Industry's Response to COVID-19**
- **FORE! Evolving Liability Exposures for Golf Courses**
  1. Directors' & Officers' Liability
  2. Employment Practices Liability
  3. Employer's Liability
  4. General Liability



# Thank You

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**Sport Law & Strategy Group**

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