

Is the US Commercial Real Estate Market About to Collapse Again?

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**COVID-19:**

How Can  
Investors  
Mitigate  
Risk?



ETHICAL  
INSURANCE  
IS NOT A MYTH

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Jason Fairbanks - President and CEO of  
Fairbanks Insurance Brokers Inc.



At Finance Monthly, we naturally speak with a lot of people who work within the financial services sector. Very few of those people, however, mention words such as 'ethics', 'honesty' and 'integrity'. This month, we had the pleasure to connect with commercial lines power broker, Jason Fairbanks, the President and CEO of Fairbanks Insurance Brokers - a California-based brokerage which specialises in insurance coverage for builders and tradesmen working within the construction industry. Jason Fairbanks has devoted his career to 'doing the right thing' and proving to other insurers that you can be ethical to your clients and still have a profitable business. Below he tells us more about it.

# ETHICAL INSURANCE IS NOT A MYTH

**Jason Fairbanks** - President and CEO  
of Fairbanks Insurance Brokers Inc.

[www.contractorsinsurancecompany.com](http://www.contractorsinsurancecompany.com)

### **Q** What is insurance and why do we need it?

Since the beginning of time, humankind has been vulnerable by nature and in need of protection against the harms of the unforeseeable future. No one has been able to predict these harms, but we have always been able to protect against them. Insurance is essentially a handshake or peace treaty between a sound, serene mind and a world of tumultuous chaos and unpredictable risk. That handshake or peace treaty has taken many forms throughout time. A nation's government, for example, will pay billions of dollars to employ a large-scale military acting as a deterrent against an attack by its hostile adversaries, thus allowing its citizens to sleep peacefully through the night. Large information companies have provided the means for cutting-edge, anti-virus products to gain security against threats of malware attacks or data breach, thereby providing a safe-guard for sensitive material. Important figures threatened by criminal organisations willing to release damaging information may offer large sums of money in exchange for the ownership or destruction of the material, consequently keeping their reputation safe.

Where money is being exchanged for security which serves as protection against the threat of some future risk or loss, you're dealing with insurance.

At Fairbanks Insurance Brokers, we exist to help protect construction companies facing such risks as unexpected property damage, accidental defects, third-party lawsuits, etc. These risks could result in large out-of-pocket sums that may put a contractor out of business and risk his family's livelihood. Our main purpose as an ethical insurance company is to create a psychological

fortress housing and caring for the mental peace-of-mind of our clients and their families in a worry-free, stress-free environment.

### **Q** What is ethical insurance and why is it important?

As we all may know, the insurance industry is a sector of the financial industry. It is an industry of other people's money in which other people are willing to pay large sums of money to secure the peace of mind in which I just mentioned. As licensed insurance producers, we are given access to a large portion of our client's money, making us part-time caretakers of their money and the most trusted ones to put their best interest first especially before our own.

Unfortunately, where we have access to large sums of other people's money, we also have an opportunity for greed, dishonesty, and theft which can lead to unethical insurance behaviour and habits. This is precisely where it matters most for insurance producers to exercise their indisputable duty to follow the code of ethics mandated by the Department of Insurance. Without an unwavering commitment to these codes which serve as the cornerstone of our industry's foundation, it will become gravely compromised and fall short in its purpose to protect the vulnerability of construction workers. For those insurance producers who do exercise their duty to the prescribed code of ethics, they are practising what I call ethical insurance.

Ethical insurance is the application of honesty, integrity and discipline to everyday insurance business operations. It is the customary

procedure or way of practising insurance which necessitates the discipline to say "no" regardless of how tempting a private reward may be. Our indestructible commitment to the integrity of our work must begin with the very first business decision and end no sooner than the last. Just as weeds grow inseparably from the farmer's valued crops and become difficult to separate, so do bad habits intertwine with the good ones and the valued crops are tossed with the weeds, just as the broker's good habits may be tossed with his bad habits in the revocation of his license. This is why ethical insurance practice must be a daily, conscious choice where we aim for 100% execution and pray to fall close to it.

### **Q** What do unethical insurance practices look like?

In my view, unethical insurance practices look similar to what happens in the following dynamic between a teenager, his naive parent and a drug dealer. The teenager goes to his naive parent seeking money for school books. The naive parent gives the teenager money conditionally, requesting a receipt of confirmation for his purchase. The teenager uses his parent's money for drugs instead and chooses a drug dealer willing to provide false receipts so he doesn't get caught. The drug dealer celebrates his sale, the teenager gets a temporary high, and the naive parent suffers betrayal from both of them and unspeakable pain if the teenager's life is taken by a bad accident.

Similar to the insurance industry, the prospective client (the teenager) goes to the job owner seeking to be awarded a project. The job owner (the naive parent) will do so provided the insurance requirements are

met as evidenced by a certificate of insurance. To obtain this certificate, the prospective client chooses the unusually low-cost certificate provided by the unethical broker (the drug dealer) who has falsely manipulated the project details and operations. The unethical broker celebrates his sale, the prospective client earns a project deal, and the job owner suffers betrayal from both of them, unknowingly taking the biggest risk and paying the biggest price in the event of a claim or significant loss for which there was not adequate insurance coverage.

valuable clients due to the unethical practice of brokers willing to put others at risk. It is not also that I have witnessed before my eyes the willingness of another to trade or accept unethical services for money. It is that I have tasted and felt the decision of another's willingness to profit at the harmful risk of an innocent third party. Listen, I am certainly not the sinless one to cast the first stone and no one is, but when it comes to business and the safety of others, I will suggest that we take a deeper look at this unethical dynamic occurring quite regularly.

thing when no one is looking and is willing to lose a deal for integrity's sake. He takes into account the ripple effect of his actions and in doing so, forwards the growth and advancement of his industry overall. His character comes before monetary gain and this is evident by his choices, not his sales pitch which is a commonly used device among the unethical brokers seeking to appear honest. Both a drug dealer and pharmacist look credible, so to speak, in a suit and tie. Therefore, we must be careful in distinguishing the appearance of honesty from ethics which account for two very different types of insurance brokers.

*It is possible to do  
be ethical and to be successful  
at the same time.*

One of my most frequently asked questions is: "What is that difference between an honest broker and an ethical broker?". I like to compare the difference to a person with talent and a person with skills. A person with talent has the natural ability to achieve great things where a person with skills uses and applies that talent in everyday life to achieve amazing things. "Honest" brokers have the potential for greatness but with a missing trail of evidence, they are only halfway there. Ethical brokers, on the other hand, harness their natural talent and apply it to everyday insurance practice. They live out their moral principles and tangibly obtain ethical outcomes that "honest" brokers merely speak of. Ethical brokers have fully arrived at greatness followed by their ethical trail of actions which can number in the hundreds of thousands. Ethical brokers can build empires by their foundational practices and stand apart significantly if we watch what they do.

At least, the fatality results in quite a show. It puts lives at risk, wastes time, breaks companies apart, destroys reputations, and puts honest people before a judge. I have previously pointed out these unethical dynamics to potential clients, spending valuable time doing so and was astounded to see that some were unphased, to be concerned by dollar signs only, even asking, "Why should I care, I don't know the job owner." Consequently, I have been deeply disheartened regarding the ethics within my field. The most devastating part to me is not that I have lost potentially

### **Q** How do ethical insurance practices look different from unethical ones?

In continuation of the aforementioned dynamic, let's replace the drug dealer with an honest pharmacist. The honest pharmacist (an ethical broker) engages in the lawful distribution of medications (or insurance products). The honest pharmacist is not greedy for a sale, assumes the parent's best interest and carries himself with integrity as he sends the teenager away. The pharmacist does the right

### **Q** How do you practice ethical behaviour in an unethical environment?

As I alluded to, there is a widespread practice of manipulating business numbers by altering class codes and

changing descriptions of a company's operations to achieve an unusually low premium. In competition, there is the ethical practice of providing accurate class codes and descriptions, assigning prospective clients the lowest premium possible that is accurately priced. When prospective clients knowingly turn down honest quotes for dishonest ones to the reward and advancement of those unethical practices over ethical ones and to the detriment of the industry's future - we never fail to feel repulsed. Even worse, after having discovered that another broker would give them a cheaper rate by unethically manipulating the underwriting, some prospective clients then expected us to give them that same rate if we wanted to keep their business. When we exercised our right to refuse to engage in that type of behaviour and explained our position, they told us they would "take their business elsewhere". Without a tear shed, we replied: "Adios!". We bade them farewell and didn't lose sleep over it.

This is our number one rule in business: Ethics must always come before success. We must always be willing to walk away from a deal no matter how great the reward may be. Our God-given conscience allows us to differentiate between right and wrong. We must always follow our conscience even if it means choosing a righteous outcome over a favourable one. In the event we lose a particular unethical business deal, we must celebrate our victory because there was dirty money involved in the first place and there is no place for dirty money in the financial world. In these situations, we must remember that we are not only protectors of our clients, but we are also the protectors of their clients too and the people dependent on them (many times their families and kids). If any client needs to file a claim, we want to make sure that claim is

covered correctly to protect all clients involved and those dependent on them.

### **Q** Is it possible to be ethical and successful in the insurance industry?

There are two dominating types of people within the financial industry: there are people with money and people who wish they had money. The people who wish they had money may be willing to partake in unethical behaviour in order to get money, and the people with money may be willing to do the same to keep their money. Is there a third type? I would like to assert there is, and I believe they are the harder working individuals willing to obtain genuine success and accept profit only at an honest day's labour. Genuine success is earned, not given or bought, and results in a win-win situation for all parties involved beginning with ourselves and carrying over to the clients we serve. If it turns out that we are not able to do right by ourselves and therefore not do right by our clients, then we shouldn't sign up for the job of being our client's protector. Finding another industry requiring less self-accountability may be the first decision we make in the right direction, and one that is certainly respectable.

When prospective clients provide false information to an honest broker, there's not much the honest broker can do. Even the most ethical brokers can be powerless to obtain honest outcomes because providing proper insurance coverage is a multi-step, multi-party process requiring participation from all parties involved. Being ethical and successful is a collaborative effort where one person's achievement is the whole team's achievement. Likened to NFL football teams, the quarterback's efforts alone never

got him to the Superbowl. The outstanding teams taking home the Lombardi Trophy did so as a team beginning with excellent coaches leading the offence, additional coaches mentoring the defence and special teams, and- at the very top- the head coaches or the Pete Carroll's of the world acting as a super mentor and senior leader overlooking the complete coaching cycle.

As a Fairbanks Insurance Broker team, we are among some of those head coaches directing the ethical collaboration of our own members, our prospective clients, our carriers' underwriters, and the job owners to move our whole team to a successful "Financial Industry Superbowl". Our Fairbanks Insurance team alone cannot give our vulnerable clients the protection they need in their fight for security of mind. We need others within the construction industry to do their part so we can all give the best service we can.

Unfortunately, bad mentorship is incredibly difficult to overcome. It creates employees who must be spared like the branches of an infected tree. Bad leadership, on the other hand, results in rotten roots. The whole tree must be uprooted altogether to prevent the infected seeds from spreading and mass-producing into an infected forest. Today, we would like to see the potential for all new brokers to be trained in an honest and ethical manner. We would also like the seasoned, unethical brokers to be reminded that it is possible to be ethical and successful at the same time. We are never without the option to start over in doing the right thing for which it is never too late. Having all powerful insurance brokers united in the same ethical causes would create an unbeatable team that we would want to be a part of.

### **Q** How has practising ethical insurance rewarded you?

Some people say it takes money to make money. We have never found that to be true. With good character and hard work, we believe we can achieve anything if we trust that who we are and what we stand for is enough to reach our goals. Those who believe in our product have first believed in us, and the character we practice is the character we attract in our base of clientele. Up until now, I have spoken of prospective clients and insurance brokers who have disheartened me. I am happy to admit that the greater majority are willing to do the right thing. The clients standing by me in my ethical practices have profoundly motivated me to stay put in my tracks and I would give all of them recognition if I could.

Over the years, prospective clients seeking a better rate from their current insurance policy - upon our comparison of their business operations with their upcoming project requirements - were surprised to learn that our rates were sometimes higher than their broker's current policy renewal. After taking the time to explain the reasoning behind our higher premiums and the potential dangers of inaccurate underwriting which can lead to a large audit bill or a claim being denied due to "material misrepresentation with intent to fraud", we then asked the prospective client to return to their current broker to match our quote's coverages with theirs in a revised version. They were incredibly appreciative that we took the time to explain the importance of making sure they were properly covered. Other times, these prospective clients have decided to become our clients as a result of seeing our ethics in practice. Ultimately, we have gained business doing the right thing rather

than turning a blind eye, and many of these clients account for the growing success at Fairbanks Insurance today.

**“**  
*Do the right thing when no one is looking.*  
**”**

Some of the more priceless rewards I experienced are ones where my clients directly benefited from our consultations on proper insurance coverage. There was a time, for instance, when we talked an H-VAC client into paying an extra couple hundred dollars for a heating device endorsement that he later needed due to having to file a claim caused by a torch fire. Paying a couple hundred extra dollars, in the beginning, saved him a couple hundred thousand dollars of personal money in the end for which he was eternally thankful. Another time we advised a general contractor building an unspecified amount of tract homes to drop his policy that maxed at a predetermined limit of units and take a different policy where the number of units was irrelevant. As it turned out, this was a critical factor in deciding whether coverage was going to be provided and now he is being defended by that carrier in a class-action construction defect lawsuit. Switching policies gave him a fighting chance which will likely save his company. Needless to say, his gratitude was endless. Stories like these, of which I have many, make our efforts to be ethical brokers worth every sweat, tear and sacrifice. They personally reward my soul and

provide me with an abundant supply of happiness.

### **Q** What have been the recent changes in the regulatory environment regarding general liability and workers compensation in the US?

Underwriting has tightened up significantly over the past few years in the state of California with regard to general liability and workers compensation. It has become increasingly more difficult to place higher risk trades with workers' compensation carriers when ordinarily the carriers would write the policy immediately. Therein arises another opportunity for brokers to act unethically out of desperation. With worker compensation underwriting departments now working more closely with statistical agents such as the Worker's Compensation Insurance Rating Bureau (WCIRB), it is far more challenging for intentional acts of material misrepresentation to achieve lower premiums. Still, a simple checkmark on an application rating a "Carpenter" as a "Finish Carpenter" could result in the required rate being up to one-half or even one-third the original price depending on the program in which it's being quoted. Typically, the unethical broker will attribute these miscommunication errors to the client who is now learning the year-end audit has just generated a massive bill for the proper class codes in which they should have been rated in the first place.

This is usually the time when the unethical broker's client will hear the "Sorry man, but you read it, you signed it" spiel, leaving the insured to fork out hundreds to several thousands of dollars in unintended additional premium as a rude

## FRONT COVER FEATURE - ETHICAL INSURANCE

awakening. While there are legitimate errors & omissions and honest mistakes in miscommunications between the broker and the client, these types of errors are inexcusable and look intended for personal gain especially when the broker claims to be a specialist. This type of behaviour is the hallmark of what I most despise and want to change in our industry. Competing with unethical brokers has been, at times, a frustrating disadvantage. We are essentially boxing with one arm tied behind our backs. We have to be extraordinary if we want to stay in the game.

**Q** If you were the commissioner of the California Department of Insurance, what changes would you implement?

Unfortunately, there's too much "passing the buck around" or denial

of responsibility when it comes to errors & omissions within the insurance industry. Too many loopholes exist for the DOI to effectively regulate which allows for these types of unethical operations to persist. There need to be stiffer penalties and more licenses suspended to create incentives for doing the right thing. Consequence and pain have been said to be an effective teacher, and I think we need more of her lessons. There's a big "he said - she said" blame game occurring which allows the unethical broker to slither his way out of disciplinary action. The client ultimately suffers in the end while the broker moves on to the next vulnerable client making more money unethically. It's the same record on replay. Granted, the DOI already threatens many disciplinary actions; still, however, these unethical brokers always seem to stay in business. This strongly tarnishes the trust of the consumer in the insurance provider.

Among other small steps, I might at the least mandate a requirement for consultation on significant aspects of the insurance product and have the client confirm or opt-out by signature similar of that to a pick-up of medication at a local pharmacy. In this way, more careful conversations are taking place in lieu of quick conversations on price, sale, bind-*and, on to the next quick buck!*

Either way, when all is said and done, ethical behaviour boils down to the personal, silent choices we make in our hearts for which no governing agent can control. It's up to you, my friends. The choice is yours. Go do the right thing and remember that ethical insurance is not a myth. To everyone who has taken the time to read this article, thank you for listening and I hope you will join us in choosing to live as ethical individuals both in business and in life. The rewards are worth it, we promise.

## Americans divided over whether to trust insurance companies

To what extent, if at all, do you trust insurance companies? (% of US adults by age)

