

Via Email

October 07, 2016

Ms. Elizabeth Witmer, Chair  
Workplace Safety & Insurance Board  
200 Front Street West  
Toronto ON M5V 3J1

and

Mr. Tom Teahen, President & CEO  
Workplace Safety & Insurance Board  
200 Front Street West  
Toronto ON M5V 3J1

Dear Ms. Witmer and Mr. Teahen:

**Re: Construction Executive Officer Classification:  
A premium rate commensurate with the insurance risk**

**An introductory comment – Bill 119 and the distinctiveness of the construction sector**

On behalf of the **Mechanical Contractors' Association of Ontario** ["MCAO"], let me express our appreciation for continuing the important dialogue on the fairest and most effective classification of construction sector executive officers. Your direct and ongoing engagement in this element of the ongoing **Rate Framework Review** ["RFR"] project we believe will prove instrumental in achieving a policy result addressing the mutual and intersecting interests of the WSIB, MCAO members and the construction sector province wide.

While this issue was discussed briefly at the September 24, 2016 **Construction Industry Advisory Committee** ["CIAC"] meeting, please accept this letter as an adjunct to the brief oral argument I presented at that time.

The MCAO was a strong, early and public supporter of the government's **Bill 119**, which received Royal Assent November 27, 2008. We all know of course the policy objects being sought by the bill, along with the WSIB's post-royal-assent administrative engagement, which included the development of a copious number of complex policies essential to an effective start-up. **Bill 119** continued a longstanding policy trend driving the establishment of a distinctive set of rules governing construction labour relationships.

Of course, the *Workplace Safety & Insurance Act*, S.O.1997, c. 16, Sch. A., as amended ["WSIA"], along with many WSIB policies continue that trend. The reasons for this distinctive treatment of construction statutory, regulatory and policy exposures are self-evident and will not be catalogued in this communication. It is sufficient to note that construction is integrally different than most if not all other sectors, like *chalk-and-cheese* if you will, with this uniqueness reflected in policy/regulatory/statutory treatment of the construction sector. **Bill 119** overall, and the specific treatment of the coverage of non-exempt construction executive officers (**WSIA, s. 12.2(1), para. 4; O.R. 47/09, s. 1.(1), para. 1**), respects that distinctiveness.

## **MCAO requested distinctive treatment for non-exempt executive officers right out of the gate**

During the committee hearings addressing **Bill 119**, MCAO made clear its support for the policy objectives of **Bill 119**. On November 18, 2008, MCAO appeared before the **Standing Committee on Social Policy**. While supporting the primary objects of the bill, MCAO outlined its general opposition to the inclusion of executive officers not exposed to construction work-site risks (the full Hansard for the Committee's hearing for November 18, 2016 is forwarded with this letter and the MCAO presentation is excerpted in its entirety at **Appendix A**):

While the MCAO supports the principle of full coverage for those exposed to construction work-site risks and lauds the efforts of the government to tackle the underground economy, there is no policy reason to extend mandatory coverage to executive officers not exposed to construction work-site hazards.

For our 360 members, this provision will increase our overall premiums by as much as 10% to 11%, with no corresponding increase in our insurance risk. Worse, the impact will be disproportionate, weighing more heavily on the small and medium-sized enterprises.

Consider these two simple illustrations. First, a very large constructor, with a \$25-million payroll and four executive officers: That company will pay approximately \$1.6 million in premiums to the WSIB and will see their premiums increase by \$18,500 as a result of Bill 119. The mandatory executive officer coverage will increase the aggregate premium of that large enterprise by approximately 1%. Contrast that with a smaller corporation with a \$1-million payroll and 18 employees, paying \$67,000 in WSIB premiums. If that company had two executive officers, which is likely, that would increase the aggregate premium of that company by \$9,294, which would increase the overall Workplace Safety and Insurance Board premium by 14%, even though the WSIB insurance risk remains essentially the same.

While MCAO preferred then (and now) that executive officers not exposed to construction risks should be excluded from mandatory coverage (and treated in precisely the same manner as any other executive officer in any other sector), I presented a reasonable alternative proposition to the Committee:

A preferred solution for executive officers not exposed to construction risk is to leave the coverage optional. However, as introduced and suggested by COCA yesterday, **if the government is steadfast in its resolve to compel mandatory coverage for all executive officers, at risk or not, then we urge that these individuals be assigned a premium that is commensurate with the risk they represent.**

Ever since, MCAO has consistently advocated a position aligned with that theme.

## **How is coverage addressed for executive officers in other non-construction sectors?**

For all sectors other than construction, executive officers are statutorily excluded from coverage. The “. . . *insurance plan does not apply to workers who are executive officers of a corporation*” (**WSIA, s. 11.(2)**).

It is important to recognize that this statutory exclusion applies to all non-construction executive officers, whether or not the officer is exposed to the hazards/risks of the respective industry on a daily basis or not.

On a completely volunteer basis, a “*corporation that carries on business*” . . . “*other than construction, may apply to the Board for a declaration that an executive officer of the corporation is deemed to be a worker to whom the insurance plan applies*” (**WSIA, s. 12.(3)**). Non-exempt construction executive officers not exposed to a construction risk have no similar option. Such executive officers are subject to compulsory coverage.

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## **The request for a classification for non-exempt construction executive officers is long-standing**

As already shown, MCAO support for **Bill 119** turned in part, at a minimum, on the establishment of a separate rate classification for construction non-exempt executive officers with a premium set at a level commensurate with the insurance risk.

In a letter of April 1, 2010, the **Construction Industry WSIB Task Force** ["CITF"] (now named the **Construction Employers Council on WSIB Health and Safety and Prevention** ["CEC"]), wrote to the WSIB affirming this request (the entire letter is attached at **Appendix B**):

*First*, notwithstanding an agreement from the WSIB at its most senior levels that a new rate group within the construction cluster for executive officers will be struck, no specific policy has yet been developed. As you know, we expect a new rate group with a premium commensurate with the true insurance risk of executive officers. CITF support for moving forward is contingent on such a policy being developed and presented to the CITF for ratification.

From the outset of the establishment of the **Construction Industry Advisory Committee** ["CIAC"], this issue was on the agenda. Notwithstanding an earlier verbal commitment (as is reflected in the April 1, 2010 CITF letter) to accede to the construction request (a premium rate commensurate with the insurance risk), it was later discovered that WSIB support was wavering. This issue formed the basis for several high-level discussions within the first 18 months of the then, recently formed CIAC. I participated in all of those discussions and recall them with some vividness. I should add that the constructive manner in which this issue was addressed in the early days of the CIAC affirmed the importance and *raison d'être* of the CIAC.

Commencing in late 2011, President Marshall expressed a general agreement with the concept of a distinct premium rate for construction sector non-exempt executive officers. The dangling-thread was the establishment the actual premium rate. The construction position was unwavering – the premium should reflect the insurance risk of construction sector non-exempt executive officers. The administration initially proposed that the average construction premium rate be used as the proxy for the risk, a suggestion that was summarily rejected by the industry members of the CIAC.

The discussion continued in a February 22, 2012 CIAC meeting when the administration floated the proposition of a premium set at \$0.64. The rationale was unconvincing (there was none), with the (then) WSIB Chair expressing his understanding that the \$0.64 proposition "*is arbitrary*" (the quotation being reflected in my notes of the meeting). A full discussion ensued. I proposed that the Board already had a longstanding institutional understanding of the actual insurance risk presented by construction sector non-exempt executive officers, and that is the risk as reflected in the **Class I, Rate Group ("RG") 956, Legal and Financial Services** premium. President Marshall suggested that the discussion "*was very helpful*" and committed the Board to review the issue afresh.

This further review of course culminated with the establishment of **Class G, RG 755**, with a rate set then (and now) at the precise same rate as **RG 956**. This result was, and remains perfectly acceptable to MCAO.

### **Is the RG 755 premium still reflective of the insurance risk for construction sector non-exempt executive officers?**

All indicators would suggest the rate is set properly, and as suggested in 2011/12, the performance of RG 755 mirrors that of the performance of RG 956. From the following two charts excerpted from the "**2017 Premium Rates Background**" for RGs 755 and 956, the performance is essentially identical:

**RG 755: Construction Non-exempt Executive Officers**

Component	2016 Rate	2017 Target	2017 Rate	Percent Change
A. New Claims Cost	0.067	0.061	0.061	-9.0%
B. Administration Expenses	0.065	0.070	0.070	7.7%
C. Past Claims Cost	0.078	0.077	0.079	1.3%
D. Total Premium Rate	0.21	0.21	0.21	0.0%

**RG 956: Legal and Financial Services**

Component	2016 Rate	2017 Target	2017 Rate	Percent Change
A. New Claims Cost	0.067	0.061	0.061	-9.0%
B. Administration Expenses	0.062	0.070	0.070	12.9%
C. Past Claims Cost	0.081	0.078	0.079	-2.5%
D. Total Premium Rate	0.21	0.21	0.21	0.0%

The **WSIB 2016 Premium Rate Manual** (“PRM”) shows that RG 755 and RG 956 share the same lost time injury rate at 0.08%, with RG 755 experiencing a slightly better total injury rate at 0.21% versus the RG 956 0.23% (**PRM, pp. 431 and 521**). Each share almost identical costs per claim at \$11,261 for RG 755 and \$11,249 for RG 956 (**PRM, pp. 434 and 528**). The relevant pages from the 2016 PRM are reproduced at **Appendix C**.

From this it can be objectively concluded that presently, construction non-exempt executive officers are being assessed a premium commensurate with the insurance risk, and even though according to the PRM the RG 755 rate was “*made equal to that of rate group 956*” (**PRM, p. 434**), by all accounts, this reflects the risk.

Interestingly, if the WSIB did/does set the premium rate at the requisite sector rate, the Board gains a substantial windfall. Relying on the 2016 PRM data, presently the premiums for RG 755 are \$1,074,117<sup>1</sup> and claim costs are \$337,830.<sup>2</sup> Applying the average 2016 construction premium, the aggregate premium for RG 755 payroll would balloon upwards to \$32,888,461 with the costs remaining constant at \$337,830, driving an unconscionable level of over-assessment approaching \$32 million.

While during the **Rate Framework Review** [“RFR”] consultation it has been suggested that this will “*come out in the wash*” we respectfully suggest otherwise. *First*, a very convincing point. The segregation of this risk *already and absolutely* ensures a fair end-point premium rate for this risk. *Second*, the RFR rate setting protocol will not mitigate the over-assessment premium risk. One need not investigate this beyond the **WSIB RFR Paper 3: The Proposed Preliminary Rate Framework** section on actuarial predictability (commencing at p. 43), to understand that for the vast majority of construction employers, due to the limits described, performance will not mitigate the increased premium assessed. In other words, and to continue the idiom just introduced, *one would need to launder a massive load of clothes for this inequity to be cleansed*. Most construction employers do not have that much wash (i.e., aggregate payroll). For the majority of construction employers, no matter how many times washed, these clothes will not come clean.

<sup>1</sup> Based on \$511,484,632 insurable earnings and a premium rate of \$0.21.

<sup>2</sup> Based on 30 claims with a cost per claim of \$11,261.

**A concluding point**

We end where we started before the Standing Committee on November 27, 2008. The premium rate for non-exempt construction executive officers must reflect the insurance risk. The example presented to the Standing Committee eight years ago still holds. The arguments presented to the Board in 2010, 2011 & 2012, still hold. The accrued performance since Bill 119 implementation has proven our point.

Again, we appreciate your ongoing review of this important issue and are confident that upon appropriate reflection, the Board will rest at the same conclusion we have reached - non-exempt construction executive officers should continue to be assessed under a distinct classification group and assessed a premium which reflects the insurance risk.

I am pleased to continue our dialogue on this issue.

Regards,

A handwritten signature in blue ink, consisting of a large, stylized 'L' and 'A' intertwined, with a horizontal line extending to the right.

**L.A. Liversidge**

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**Appendix A: Excerpt of MCAO presentation to the Standing Committee on Social Policy November 18, 2008**

**STANDING COMMITTEE ON SOCIAL POLICY  
Tuesday 18 November 2008  
MECHANICAL CONTRACTORS ASSOCIATION OF ONTARIO**

**The Chair (Mr. Shafiq Qaadri):** We'll now proceed directly to our next presenters, Mr. Coleman, Mr. Capotosto and Mr. Liversidge of the Mechanical Contractors Association of Ontario. I would invite you to begin now.

**Mr. Les Liversidge:** My name is Les Liversidge. I'm here today representing the Mechanical Contractors Association of Ontario. Joining me on my right is Mr. Don Capotosto, president of Gimco Ltd., a member of the board of directors of the MCAO; along with, on my left, Mr. Steve Coleman, MCAO's executive vice-president.

The MCAO is a major provincial construction employer association that represents some 360 member firms involved in the industrial, commercial and institutional sector of Ontario's construction industry, that in turn directly employs approximately 12,000 construction tradespersons across the province. MCAO members submit Workplace Safety Insurance Board premiums under two rate groups in excess of \$35 million per year. The MCAO is a long-time member of the Council of Ontario Construction Associations, which appeared before this committee yesterday, and the MCAO generally supports and adopts the COCA presentation.

For the reasons set out in the COCA presentation, the idea of universal mandatory insurance coverage for the construction sector for at-risk individuals is an appropriate social and policy objective. While a review of the WSIB monopoly for on-the-job insurance protection is arguably worthy of a debate, the MCAO supports the principle of mandatory universal insurance coverage and, for the moment, accepts that the Ontario WSIB is the best vehicle through which to deliver that objective. The broader debate, though, would be welcomed at a future point.

That said, the MCAO does not support the inclusion of executive officers not exposed to construction work site risks. Such an inclusion does little to promote the touted policy expectations of Bill 119: to promote coverage for at-risk construction workers and to fight the underground economy. Legitimate executive officers are neither at risk nor are they part of the underground economy.

Sole proprietorships, partnerships and incorporation are legitimate and legal means of business organization. Legitimate independent operators are unique in that they may organize as a sole proprietorship or a corporation. Of course, once a worker is hired, the enterprise becomes an employer.

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Bill 119 is sensitive to several similar but distinct policy concerns.

(1) Some individuals who are workers, in fact and law, masquerade as independent operators until injured on the job. This represents the quintessential revenue leakage problem.

(2) Legitimate independent operators who have not opted for voluntary WSIB coverage are exposed daily to construction site risks and are either not insured or are underinsured.

(3) Similarly, owners—a sole proprietor, a partner or a legitimate executive officer—of small construction firms properly registered and in good standing with the WSIB are exposed daily to construction site risks and are either not insured or are underinsured.

(4) A significant minority of companies engaged in the Ontario construction industry run underground. They hire workers, but neither register with the WSIB nor pay premiums.

That seems to capture what Bill 119 is at least trying to deliver on.

While the MCAO supports the principle of full coverage for those exposed to construction work-site risks and lauds the efforts of the government to tackle the underground economy, there is no policy reason to extend mandatory coverage to executive officers not exposed to construction work-site hazards.

For our 360 members, this provision will increase our overall premiums by as much as 10% to 11%, with no corresponding increase in our insurance risk. Worse, the impact will be disproportionate, weighing more heavily on the small and medium-sized enterprises.

Consider these two simple illustrations. First, a very large constructor, with a \$25-million payroll and four executive officers: That company will pay approximately \$1.6 million in premiums to the WSIB and will see their premiums increase by \$18,500 as a result of Bill 119. The mandatory executive officer coverage will increase the aggregate premium of that large enterprise by approximately 1%. Contrast that with a smaller corporation with a \$1-million payroll and 18 employees, paying \$67,000 in WSIB premiums. If that company had two executive officers, which is likely, that would increase the aggregate premium of that company by \$9,294, which would increase the

overall Workplace Safety and Insurance Board premium by 14%, even though the WSIB insurance risk remains essentially the same.

A preferred solution for executive officers not exposed to construction risk is to leave the coverage optional. However, as introduced and suggested by COCA yesterday, if the government is steadfast in its resolve to compel mandatory coverage for all executive officers, at risk or not, then we urge that these individuals be assigned a premium that is commensurate with the risk they represent.

I want to turn to the issue of addressing the underground economy.

As was also expressed by COCA, the MCAO supports Bill 119's reliance on a new system to verify insurance coverage, even though the mechanics of that new system are not spelled out and supporters are asked to take this somewhat on faith. Without such a mechanism, the inclusion of independent operators and others as "deemed workers" will do little or nothing to solve the systemic problem of the underground economy.

The complexities associated with this proposal—and this proposal is the verification system—are understood. While a verification mechanism is easily implemented with respect to independent operators and at-risk owner coverage, since they are directly responsible for paying their premiums and could easily be directly responsible for presenting proof of those premiums paid, it is not so easily developed for normal construction workers.

Through COCA, the MCAO commits to work with the WSIB and the rest of the industry to develop a workable system. However, without a workable verification mechanism, the WSIB will be ill-equipped to tackle the underground economy, and this essential objective will be thwarted.

I want to talk about a component which has been touched on by a few other presentations, as I heard them today. I'll call them the "moral hazard" considerations that this new bill brings forth.

Wage replacement insurance coverage for self-employed individuals has been the subject of extensive discussion at the federal level, with respect to inclusion in the employment insurance regime. A general reticence has emerged because of the difficulties associated with containing the "moral hazard" of self-employed individuals. Such a problem will now present itself in the Ontario workplace safety and insurance scheme. It will be difficult to distinguish between long-term unemployment due to disability through on-the-job injury and long-term unemployment through loss of business opportunity.

If, as the government projects, Bill 119 will result in 90,000 new workers being insured by the WSIB, it can be expected that this will also result in 1,800 new lost-time-injury claims being accepted by the board if only average trends present themselves, with a new annual benefit cost of \$122 million each and every year. The moral hazard implications are stark and must be managed. As part of the Bill 119 implementation process, the WSIB must develop a viable strategy to manage the insurance moral hazard for self-employed persons.

There's another problem, and this has been introduced as well. This is the question of double insurance. Workplace safety and insurance coverage is limited in scope. It is limited to injuries which occur in the course of employment. Self-employed individuals require a broader scope of insurance coverage and normally acquire and require 24/7 accident and disability insurance. Independent operators and owners will still require 24/7 insurance coverage, plus now WSIB coverage, yet lack sufficient bargaining power to negotiate lower 24/7 premiums, even though the private insurance claims usage will decline significantly. As an adjunct to Bill 119, the Ontario government should spearhead an immediate dialogue with the Ontario insurance sector to request a premium offset in these circumstances and present those assurances and guarantees to the industry.

In closing, with the qualifications and suggestions set out today, the MCAO supports the government's decision to introduce mandatory workplace safety and insurance coverage for the construction industry. Through COCA, the MCAO will continue to work with the government and the board to advance our mutual interests.

I think there's time for a few questions.

**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Liversidge. We'll have some time for questions. We have a couple of minutes per side. Mr. Bailey.

**Mr. Robert Bailey:** Yes, thank you, Mr. Liversidge, Mr. Coleman and Mr. Capotosto, for coming today.

I had a question. Mr. Liversidge, you touched on the people with dual insurance. People have spoken to me about this and said that some of them are locked in to 20-year insurance plans, that they'll either have to take a big penalty or keep paying that or have both insurances. I like your idea there that the government and us, if this does pass, either have an amendment or something so that there's some form—maybe the other two gentlemen here would like to speak to that. Because some people would be in that position, right?

**Mr. Les Liversidge:** Yes, I'd like to touch on that. You open the door to several points and several questions.

The first one is the issue of double insurance. It's wasteful. It's not a sound use of resources to double insure the same risk. It makes no sense. But it would seem to me that it would be incumbent upon the government—being the cause of the now double insurance issue, and since insurance is a provincially regulated function, they are in a better position to spearhead a strong dialogue with the insurance industry to ensure that a fairer premium mechanism exists

for those who do find themselves locked into that issue. So that's something that they can do outside the workers' comp issue.

But there's a second consideration that I think is worthy of exploration as well. That's whether or not the insurance for independent operators and at-risk/exposed owners and executive officers—remember that we oppose the inclusion of coverage for those who are not at-risk/exposed—whether or not those individual, in actuality, have the same insurance risk as normal construction workers. Intuitively, you would think otherwise. Intuitively, you would think that independent operators, even at-risk owners and executive officers, would more likely than not have a lower overall risk. At 90,000—and that's just independent operators; if you include the at-risk executive officers, you're probably well over 100,000, maybe a 120,000 pool of risk—that's enough to float its own separate and distinct risk pool and it should attract its own premium based upon its actual demonstrated risk. The WSIB at this very point in time, based upon its exposure and its ability to accumulate its own data, should be able to determine right now whether or not independent operators—

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**The Chair (Mr. Shafiq Qadri):** Thank you, Mr. Bailey. Mr. Miller.

**Mr. Les Liversidge:** —and at risk—

**The Chair (Mr. Shafiq Qadri):** Thanks.

**Mr. Les Liversidge:** —have the same overall insurance risk.

**Mr. Paul Miller:** I think you just got cut off.

**Mr. Les Liversidge:** I kept talking.

**Mr. Paul Miller:** Yeah, I saw that.

**Mr. Les Liversidge:** My red light stayed on.

**Mr. Paul Miller:** Yes, that's right. My light's on now.

Anyway, I listened to your presentation and I have some problems with some of it. I agree with you on probably 80%. You mentioned the superintendents and owners, and my fear is, how many are going to be considered superintendents and owners, or executive officers, if you've got 10 workers in a company and seven of them are considered executive officers and you've got three guys on a work site?

And I'm a little confused with the 24/7 insurance. I was a tradesman. When I was on a job site, I was covered by WSIB. When I leave that job site, I'm on my own. So I don't know about 24/7 insurance; I don't quite understand that angle.

The other thing was, I agree with you that we need more dialogue and I agree that, at committee level, we have to talk out more of these things. But I don't agree with you on the 24/7 insurance; I think that's a myth. I mean, nobody's covered; if I leave a steel plant and I go home, I'm not covered for insurance. I'm confused by that.

**Mr. Les Liversidge:** Mr. Don Capotosto can address that point. But let me address your first point first. As I understand, your first point was some worry that executive officers may not be executive officers.

**Mr. Paul Miller:** No, no. My worry was, how many of them will there be in a company and how many of them will be exempt and not covered? Any job site I've been on or I've ever been involved in, a lot of so-called operators or executives come to the job site wearing the white hats, tour the job site. They could be injured too. They're called superintendents. So I'm confused—

**Mr. Les Liversidge:** Right. That's a good point. Union officials tend to come to job sites too.

**Mr. Paul Miller:** They do.

**Mr. Les Liversidge:** Union officials aren't even subject to mandatory coverage—

**Mr. Paul Miller:** But they're covered under WSIB.

**Mr. Les Liversidge:** Union officials aren't subject to mandatory coverage under—

**Mr. Paul Miller:** It's in their union dues.

**Mr. Les Liversidge:** —workplace safety insurance. If they opt in, they pay 60 cents per \$100 of payroll, about 10% of the risk. The precedent has already been set to establish what that risk pool is, and I would suggest it probably isn't any more than 60 cents. If you are worried, if the policy objective of coverage is so powerful that it will include the partially at-risk executive officers, if I could do that, or the sometimes at-risk executive officers, or the executive officer who may once in a while be on the job site, you want to make sure that person still gets the full protection of the Ontario Workplace Safety Insurance Act, then it makes complete and total sense to ensure that that premium is a fair premium—

**Mr. Paul Miller:** It would have to be a percentage.

**Mr. Les Liversidge:** —and one that respects the degree of actual risk. I think there's several different ways to address the same problem—

**The Chair (Mr. Shafiq Qadri):** I have to intervene here. Thank you Mr. Miller. Mr. Dhillon.

**Mr. Paul Miller:** I'd like to discuss this further with you—



**The Chair (Mr. Shafiq Qadri):** Mr. Dhillon.

**Mr. Paul Miller:** I'd like that 24/7 insurance. That's something else.

**Mr. Vic Dhillon:** Thank you, Chair.

Thank you very much for your presentation and appearing before the committee. You indicated that there should be a creation of a new verification system. Can you just explain how this would be different from the commonly termed "named insurance" system?

**Mr. Les Liversidge:** Well, it may be the same thing as the named-insurance system. The named-insurance system and the verification system, what Bill 119 has in mind, have never really been defined. We really don't know what the board has in mind. We don't know what is doable or not doable. I do know that until you have a workable mechanism, you will not be able to address the underground economy because you still will not know who's insured.

The issue of independent operators is not the issue, as one of the presenters said here earlier on, which defines the underground economy. The issue of the underground economy is caused by people who avoid paying taxes. People who don't pay taxes go underground; they're not paying workers' comp taxes, they're not paying GST, they probably aren't paying personal income tax etc. They are in the cash economy. That problem exists right now, with or without independent operators. Independent operators are not the proxy for the underground economy; they are two separate and distinct problems.

The independent operator issue can be subdivided into two issues: one is legitimate independent operators, and you want to use the paternalism in the Ontario workplace safety insurance regime to blanket-cover those individuals. Workers' compensation legislation has a general paternalistic social and policy objective, which I guess is generally acceptable. You also want to ensure that people who are in reality—in fact, in law, as I said in my submission—workers are not treated as if they are independent operators. That is not necessarily the same as the underground economy. This is one big worry, that there's going to be a sense that with the passage of Bill 119 we've fixed the underground economy issue. Not so. With the passage of Bill 119 you have, I hope, spotlighted the importance of fixing the underground economy issue. It will then be time to roll up one's sleeves and figure out how you're going to put in the mechanisms to address that. Clearance certificates and things like that aren't enough; they don't do it.

**Appendix B: April 1, 2010 CITF letter to WSIB**

**Construction Industry WSIB Task Force**



April 1, 2010

Ms. Dana Leshchyshyn  
Executive Director, Operations, WSIB  
Workplace Safety & Insurance Board  
200 Front Street West  
Toronto ON M5V 3J1

Dear Ms. Leshchyshyn:

**Consultation on draft operational policies relating to Bill 119**

On behalf of the **Construction Industry Task Force (CITF)**, I am enclosing the CITF response to the Board's "*Consultation on draft operational policies relating to Bill 119, mandatory coverage in the construction industry*" (reference your letter of January 18, 2010).

Our engagement on the development of *workable* policies is not coming to an end with these submissions, it is effectively beginning. As you are aware, the CITF has been a fervent supporter of *Bill 119*. However, more work is required to ensure the Board's policies receive the support of the CITF. As there is no real urgency at this point, and there is sufficient time to perfect the Board's policies, we are seeking to commence the more formal phase of policy development with a meeting with you and your colleagues to review our concerns and set out the next steps.

All that said, we are greatly concerned with what has been omitted from the policies.

*First*, notwithstanding an agreement from the WSIB at its most senior levels that a new rate group within the construction cluster for executive officers will be struck, no specific policy has yet been developed. As you know, we expect a new rate group with a premium commensurate with the true insurance risk of executive officers. CITF support for moving forward is contingent on such a policy being developed and presented to the CITF for ratification.

*Second*, the Board remains silent on a cornerstone commitment – to commence a process to explore the development of a verification system as contemplated by s. 183(1.1) and (1.2) of the *Workplace Safety & Insurance Act*. As you were present at the meeting held at the Minister's office last December, I will not repeat our position. The CITF expects that the Board will commence that dialogue before these policies proceed for approval. While the Board is approaching the policy development phase as being distinct from the verification protocol, the CITF links the two as being integral features of *Bill 119*.

We will be in touch to schedule our next discussion.

Yours truly,

A handwritten signature in black ink, appearing to read "Clive Thurston".

Clive Thurston  
Chair, CITF

cc: The Hon. Steve Mahoney, WSIB Chair  
David Marshall, WSIB CEO  
Tom Teahen, Chief, Corporate Services Cluster

c/o 6299 Airport Road, Suite 703, Mississauga, Ontario L4V 1N3  
(905) 671-3969

**Appendix C: Excerpts from WSIB 2016 Premium Rate Manual**

**2016 Premium Rates**

**2016 PREMIUM RATES**  
**6-YEAR HISTORICAL SUMMARY AND 2-YEAR PROJECTION**

**RATE GROUP 755: NON-EXEMPT PARTNERS AND EXECUTIVE OFFICERS IN CONSTRUCTION**  
**(CLASS G: CONSTRUCTION)**

Year	Insurable Earnings	Maximum Insurable Earnings Ceiling	Average Insurable Earnings	Employment	Number of LTIs	Lost Time Injury Rate	Total Number of Injuries	Total Injury Rate
2009	N/A	\$74,600	N/A	N/A	N/A	N/A	N/A	N/A
2010	N/A	\$77,600	N/A	N/A	N/A	N/A	N/A	N/A
2011	N/A	\$79,600	N/A	N/A	N/A	N/A	N/A	N/A
2012	N/A	\$81,700	N/A	N/A	N/A	N/A	N/A	N/A
2013	\$412,063,830	\$83,200	\$35,000	11,773	0	0.00%	2	0.02%
2014	\$479,112,236	\$84,100	\$35,289	13,577	10	0.07%	28	0.21%
2015	\$494,314,926	\$85,200	\$35,128	14,072	11	0.08%	29	0.21%
2016	\$511,484,632	\$88,000	\$35,171	14,543	12	0.08%	30	0.21%

\* Due to the fact that this is a new rate group effective January 1, 2013, there is no information prior to 2013.

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**2016 Premium Rates**

**2016 PREMIUM RATES**  
**NEW CLAIMS COST BY RATE GROUP**

Rate Group	Description	2016 New Claims Cost		2016 Premium Rate
		Cost Index* (%)	Cost per Claim (\$)	
704	ELECTRICAL AND INCIDENTAL CONSTRUCTION SERVICES	67%	14,170	3.69
707	MECHANICAL AND SHEET METAL WORK	70%	14,765	4.16
711	ROADBUILDING AND EXCAVATING	92%	19,465	5.29
719	INSIDE FINISHING	174%	36,639	7.51
723	INDUSTRIAL, COMMERCIAL & INSTITUTIONAL CONSTRUCTION	88%	18,475	4.55
728	ROOFING	160%	33,765	14.80
732	HEAVY CIVIL CONSTRUCTION	95%	20,124	7.03
737	MILLWRIGHTING AND WELDING	89%	18,844	6.90
741	MASONRY	272%	57,283	12.70
748	FORM WORK AND DEMOLITION	86%	18,167	18.31
751	SIDING AND OUTSIDE FINISHING	118%	24,957	10.25
755	NON-EXEMPT PARTNERS AND EXECUTIVE OFFICERS IN CONSTRUCTION	53%	11,261	0.21**
764	HOMEBUILDING	122%	25,710	9.10
<b>CLASS G</b>	<b>CONSTRUCTION</b>		<b>21,087</b>	<b>6.43</b>

\* The Cost Index compares the average cost of a claim for a Rate Group to that of the Class.  
\*\* The Total Premium Rate for this rate group was made equal to that of rate group 956 - Legal And Financial Services

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**2016 Premium Rates**

**2016 PREMIUM RATES**  
**6-YEAR HISTORICAL SUMMARY AND 2-YEAR PROJECTION**

**RATE GROUP 956: LEGAL AND FINANCIAL SERVICES**  
**(CLASS I: OTHER SERVICES)**

Year	Insurable Earnings	Maximum Insurable Earnings Ceiling	Average Insurable Earnings	Employment	Number of LTIs	Lost Time Injury Rate	Total Number of Injuries	Total Injury Rate
2009	\$3,963,247,108	\$74,600	\$36,101	109,783	141	0.13%	334	0.30%
2010	\$4,173,599,748	\$77,600	\$35,559	117,371	113	0.10%	293	0.25%
2011	\$4,343,799,601	\$79,600	\$36,540	118,877	115	0.10%	312	0.26%
2012	\$4,472,470,347	\$81,700	\$35,722	125,201	124	0.10%	322	0.26%
2013	\$4,586,356,659	\$83,200	\$36,305	126,329	129	0.10%	312	0.25%
2014	\$4,803,740,735	\$84,100	\$37,595	127,775	104	0.08%	291	0.23%
2015	\$4,969,402,214	\$85,200	\$38,149	130,263	105	0.08%	296	0.23%
2016	\$5,118,868,058	\$88,000	\$38,773	132,022	105	0.08%	300	0.23%

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**2016 Premium Rates**

**2016 PREMIUM RATES**  
**NEW CLAIMS COST BY RATE GROUP**

Rate Group	Description	2016 New Claims Cost		2016 Premium Rate (\$)
		Cost Index* (%)	Cost per Claim (\$)	
905	APARTMENT AND CONDOMINIUM SERVICES	163%	11,161	3.04
908	OTHER REAL ESTATE SERVICES	135%	9,263	1.31
911	SECURITY AND INVESTIGATIVE SERVICES	103%	7,032	1.74
919	RESTAURANTS AND CATERING	65%	4,480	1.72
921	HOTELS, MOTELS AND CAMPING	122%	8,352	3.10
923	JANITORIAL SERVICES	145%	9,926	3.73
929	SUPPLY OF NON-CLERICAL LABOUR	81%	5,537	5.05
933	EQUIPMENT RENTAL AND REPAIR SERVICES	172%	11,750	3.08
937	RECREATIONAL SERVICES AND FACILITIES	116%	7,978	2.19
944	PERSONAL SERVICES	164%	11,253	3.26
956	LEGAL AND FINANCIAL SERVICES	164%	11,249	0.21
958	TECHNICAL AND BUSINESS SERVICES	168%	11,511	0.38
962	ADVERTISING AND ENTERTAINMENT	136%	9,286	1.09
975	LINEN AND LAUNDRY SERVICES	154%	10,538	4.12
981	MEMBERSHIP ORGANIZATIONS	170%	11,676	0.79
983	COMMUNICATIONS INDUSTRIES	162%	11,107	0.37
<b>CLASS I</b>	<b>OTHER SERVICES</b>		<b>6,852</b>	<b>1.34</b>

\* The Cost Index compares the average cost of a claim for a Rate Group to that of the Class.

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