SASKATCHEWAN ROOFING CONTRACTOR'S ASSOCIATION

Competition Compliance Program

July 2009

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SRCA COMPLIANCE TRAINING PROGRAM

INSTRUCTIONS

All active SRCA members must complete this training program as a condition of membership.

Any questions or concerns that arise during training may be directed to the SRCA Compliance manager as follows:

Administrative Director

Telephone: (306) 721-8020
Email: saskroofing@sasktel.net

Part 1: Review the prohibition order provided to all members by the Administrative Director, and review the *Competition Act*, accessible at http://laws.justice.gc.ca/en/C-34/

Part 2: Read the "Competition Compliance Program" and all appendices, found at www.srca.ca

Part 3: Complete the Compliance Comprehension Assessment, located at appendix B of the Program, located at www.srca.ca

Part 4: Read and complete the Acknowledgement at appendix C of the Program, found at www.srca.ca

Part 5: Send the completed Assessment and Acknowledgement to the Administrative Director, at the contact information above.

1 INTRODUCTION

1.1 Purpose

1.1.1 This Competition Compliance Program ("Program") commits the Saskatchewan Roofing Contractors Association ("SRCA") and its members to compliance with the *Competition Act*, while allowing members to provide value to customers and compete effectively in the Provincial, Canadian, and international construction economies.

1.1.2 This Program will help the SRCA and its member businesses anticipate and prevent contraventions before they occur, and detect and report contraventions if they do occur. All SRCA members are to use the information contained in this Program, as they carry out business, and participate as SRCA members.

1.2 Commitment to Compliance

1.2.1 The Saskatchewan Roofing Contractors Association is committed to complying with the law. In instances where this Program sets standards that are higher than those required by the *Competition Act*, it is intended that Program requirements be strictly complied with.

> *It is the personal mission of the SRCA and its leadership to commit to the objectives, procedures, and policy directives contained in this Program. As the current President of the SRCA, I speak on behalf of our association and its Board of Directors when I stress that we are committed to fair competitive pricing, and compliance with the* Competition Act. *It is my belief that this program will allow the SRCA and its members to prosper as they work in a spirit of fair business practices and honesty.*
>
> *Wayne Pochynuk*
> July, 2009

1.2.2 The Board of Directors has designated a SRCA director as Compliance Officer, responsible for implementing and maintaining the Program. Inquiries as to the Program or related matters may be directed to SRCA manager, as follows:

Administrative Director

Telephone: (306) 721-8020
Email: saskroofing@sasktel.net

1.3 Member Responsibility for Compliance

1.3.1 Responsibility for compliance with the Act rests with each and every active member business of the SRCA. Compliance protects not only the SRCA, but also our members and their employees.

1.3.2 The SRCA bylaws supporting this Program are attached at **Appendix A**.

1.4 Canadian Competition Law

1.4.1 The purpose of Canadian competition law is to maintain and encourage effective competition in Canada. The *Competition Act* maintains a competitive marketplace by prohibiting certain activities that might reduce or prevent competition or harm consumers. The Commissioner and the Competition Bureau (the "Bureau") administer and enforce the Act.

1.4.2 The Act promotes efficiency in the Canadian economy, and expands opportunities for market participation by businesses. The Act aims to provide Canadian consumers with competitive prices, and product choices.

1.4.3 The *Competition Act* specifically addresses practices such as price fixing, bid-rigging, price discrimination, predatory pricing, discriminatory promotional allowances, double ticketing, price maintenance, bait and switch selling, sale above advertised price, refusal to deal, exclusive dealing, tied selling, market restrictions, or abuse of dominant position.

1.4.4 Construction industry participants are exposed to high risks for certain offences in relation to competition. Conspiracy is among these offences. Conspiracy is a crime which occurs when competing businesses **agree** as to prices they will charge customers, or measures they will take to prevent or impede other businesses from competing in a given market. Conspiracy is also present when competitors **agree** not to compete for certain customers, or not to compete in a particular product or geographic market.

1.4.5 Members of the construction industry are also at risk of exposure to bid-rigging. Bid-rigging is a crime that occurs where two or more bidders **agree** not to submit a bid on a call for tenders, or two or more parties **agree** to submit bids which they have prearranged. **Agreeing** to submit bids that are too high, agreeing to abstain from or withdraw bids, **agreeing** to rotate submission of low bids among competitors, or **agreeing** not to compete for specific jobs, customers, or work in designated geographic areas, all constitute examples of the offence of bid-rigging.

1.4.6 SRCA members must be particularly alert to the risks of anti-competitive behaviours. Members are not to participate in any discussions or behaviour that may be questionable in light of the principles and rules contained within the *Competition Act*. Discussions and activities occurring at SRCA events are to accord with the objectives of this Program.

1.5 Enforcement of the *Competition Act*

1.5.1 The Commissioner investigates complaints by business people and consumers. Under the *Competition Act*, the Commissioner's investigative powers include, among others, the ability to search offices, seize records and interview individual employees under oath.

1.6 Penalties and Remedies under the Act

1.6.1 Contravention of the Act, whether civil or criminal, can result in serious legal consequences for the SRCA and our member businesses. For example, contraventions can:

- expose the SRCA to significant criminal fines or civil administrative monetary penalties, prohibition orders and recovery of damages by private parties; and
- expose member businesses to criminal fines and imprisonment or to civil administrative monetary penalties.

1.6.2 Specific examples of penalties under the *Act* include up to 5 years of imprisonment, fines up to $10 million dollars, or both, for parties found guilty of conspiracy under section 45 of the *Competition Act*.

1.6.3 Penalties for "Bid-Rigging" under section 47 of the *Competition Act* may include fines and/or imprisonment up to 14 years.

1.7 Subject Personnel

1.7.1 The Program applies to all SRCA members, at all levels, who are in a position to potentially engage in, or be exposed to, illegal conduct (hereinafter referred to as "members").

1.7.2 It is the responsibility of all members to conduct their activities on behalf of their businesses and the SRCA in compliance with the provisions and principles of the Act.

No SRCA member has the authority of the SRCA to engage in any conduct, or knowingly permit an employee to engage in any conduct, that contravenes the Act or this Program.

1.7.3 A member who engages in such conduct or who otherwise contravenes the Program or the Act is subject to SRCA disciplinary or corrective measures, up to and including cancellation of membership.

2 BOARD INVOLVEMENT AND SUPPORT

2.1 The SRCA recognizes that the Board of Directors' ("the Board") clear support is vital to Program effectiveness.

2.2 In the performance of their duties, the Board must always exercise care and act in the best interests of the SRCA.

2.3 It is the Board's duty to promote and ensure compliance with the Act. The Board shall delegate specific individuals or groups to promote and ensure compliance throughout the Association.

3 SRCA COMPLIANCE POLICIES AND PROCEDURES

3.1 Policies and Procedures pertaining to SRCA activities, and promoting this Compliance Program's success are incorporated into the SRCA bylaws, and the relevant provisions are attached at **Appendix A**. These bylaws will be updated to reflect material changes in the association, the law, Competition Bureau enforcement policies, or industry. Reasonable measures will be taken to promptly notify all members of such changes.

4 TRAINING AND EDUCATION

4.1 The SRCA believes and recognizes that an effective Program includes an educational component that addresses compliance issues for all members.

4.2 This Training and Education Program is attached at **Appendix B**.

4.3 All SRCA active members, directors, officers, and SRCA employees shall receive and complete the Education Program upon commencing membership.

4.4 This Program can be found on the SRCA's website at www.srca.ca .

5 MEMBER ACKNOWLEDGEMENT

5.1 As part of this Program, each active member representative is required to acknowledge that he/she has read and understands this Program and that he/she understands his/her obligations under it. Such an acknowledgement will also be sought in the event that significant changes to the Program take place. An acknowledgement form may be found at **Appendix C.**

6 MONITORING AND AUDITING MECHANISMS

6.1 The SRCA Compliance Officer is responsible for monitoring all SRCA activities to ensure compliance. This monitoring shall occur on an ongoing basis, as SRCA events take place.

6.2 In addition, the SRCA Compliance Officer shall be free to conduct audits of SRCA records as appropriate, to confirm whether the association is fully complying with the Act.

6.3 The Compliance Officer shall keep records, and report regularly on the results of monitoring and auditing efforts.

6.4 The SRCA Compliance Officer shall review and update this Program when issues are detected.

6.5 Procedures for Monitoring and Auditing are appended to this document as **Appendix D.**

7 REPORTING MECHANISMS

7.1 All instances of non-compliance with the Program or the Act are to be communicated to the Compliance Officer who shall promptly report to the Board.

7.2 If members have questions concerning the Program or the Act, they are encouraged to contact the SRCA Compliance Officer.

7.3 If members become aware of a breach or possible breach of the Program or the Act, they must report it to the Compliance Officer immediately.

7.4 Members shall not suffer any adverse membership consequences for reporting a possible contravention of the Program or the Act.

7.5 Reporting Procedures are attached to this document as **Appendix E**.

8 DISCIPLINARY MEASURES

8.1 The SRCA's commitment to compliance with the Program and the Act is demonstrated through the serious treatment that will be afforded to non-compliance.

8.2 Any breach of this Program and/or the Act will result in disciplinary action.

8.3 Disciplinary measures are stated in the SRCA bylaws, as attached at **Appendix A**.

APPENDIX A

SRCA BYLAWS RELATING TO COMPLIANCE

Article 4 - MEMBERSHIP

Section 4C. Any Membership may be terminated for cause, conduct or behaviour inimical to the interests of the Association by adoption of a resolution of the Board of Directors provided prior to the adoption of any such resolution, the Member affected by such resolution shall be given 5 business days notice of and afforded full opportunity to be heard at a hearing before the Board of Directors, or a Committee appointed by the Board of Directors, regarding the adoption of any such resolution provided always in the event the Member does not attend the hearing where notice of the hearing has been given to the Member, the appointed Committee or the Board of Directors may proceed in the absence of the Member, and the Member is not entitled to any further notice of the proceedings.

Article 20 – RULES AND REGULATIONS

Section 1: POWERS OF THE BOARD OF DIRECTORS

The Board of Directors and the Executive Committee, or either one of them, may prescribe such rules and regulations not inconsistent with these bylaws relating to the management and operation of the Association they deem expedient provided such rules and regulations shall have force and effect on all members only until the next Annual General Meeting of the Members of the Association, when they shall be confirmed, and in default of confirmation at such Annual General Meeting of Members shall at and from that time cease to have any force or effect.

Section 2: NOTICE OF CHANGE OR NEW REGULATIONS OR RULE

Prior to implementing a change in the regulations or rules, or a new regulation or rule, there shall be a notice in writing by a Director to the Board of Directors at least ten (10) days before the set meeting date, stating the change or new regulation to be presented at the Board of Directors' Meeting. If sufficient notice is not given the regulation or rule shall only be presented at the Board of Director's Meeting as a notice of motion and shall be dealt with at the next Board of Directors' Meeting.

Section 3: VIOLATION OF RULES AND REGULATIONS

Any violation of the rules and regulations in force at the time of said violation shall be acted upon by the Board of Directors.

PROPOSED BYLAW AMMENDMENTS

1. At the September 2, 2009 meeting of the Board of Directors of the Saskatchewan Roofing Contractors' Association pursuant to Bylaw Article 20, Section 1 will prescribe that the Competition Compliance Program is a rule of the Association.

2. At the next Annual General Meeting of the SRCA, two-thirds of the members present or 20% of the active members of the Association as per Bylaw Article 19 will amend Bylaw Article 4, Section 4 C to read as follows:

> Any Membership may be temporarily suspended or permanently terminated for cause, conduct or behaviour inimical, including contravention of the SRCA Competition Compliance Program and/or the *Competition Act* to the interests of the Association by adoption of any such resolution of the Board of Directors provided prior to the adoption of any such resolution, the Member affected by such resolution shall be given 5 business days notice of and afforded full opportunity to be heard at a hearing before the Board of Directors, or a Committee appointed by the Board of Directors, regarding the adoption of any such resolution provided always in the event the Member does not attend the hearing where notice of the hearing has been given to the Member, the appointed Committee or the Board of Directors may proceed in the absence of the Member, and the Member is not entitled to any further notice of the proceedings.

APPENDIX B

SRCA COMPLIANCE COMPREHENSION ASSESSMENT

Name: _____

Business: _____

Position within Member: _____

Choose only the best answer.

1. Have you read and understood all Competition Compliance Program materials?

a) Yes

b) No

2. Who would be an appropriate contact in the event that incidents or concerns arise under the *Competition Act*, or the SRCA Competition Compliance Program?

a) The SRCA Manager

b) The SRCA Compliance Officer

c) Legal Counsel

d) The Competition Bureau

e) Any or all of the above

3. What are the duties of the SRCA Compliance Officer?

a) Monitoring, Auditing, and Reporting on SRCA activities

b) Staying apprised of changes and developments to the *Competition Act*

c) Communicating concerns to the Board of Directors

d) Carrying out searches, and investigating employees

e) All of the above

f) a and d

g) a and c

h) a, b, and c

4. SRCA Compliance Program materials are available through:

a) The Competition Bureau
b) The SRCA and its website
c) Any of the SRCA member businesses
d) All of the above
e) None of the above

5. Reaching an agreement with competitors on the prices customers will be charged, or agreeing not to compete for certain customers constitutes:

a) Price discrimination
b) Refusal to deal
c) Conspiracy
d) Bid-Rigging

6. What response is to be taken if member conversations at a SRCA event appear to offend the *Competition Act* and/or the SRCA Compliance Program?

a) Remain silent and do not actively participate in the conversation
b) Participate in the conversation, but refuse to come to any competitor agreements
c) Leave the room and refuse to participate in the discussion
d) Insist that the Compliance Program principles be strictly followed, and report to either the SRCA's Manager or Compliance Officer.

7. Purposes of the *Competition Act* include:

a) Maintaining market competition in the interest of the public
b) Providing consumers with competitive prices and product choices
c) Providing information with respect to fair business practices and law
d) All of the above
e) a and b
f) b and c

8. Which of the following examples constitutes "Bid-Rigging"?

a) Two or more parties agreeing to submit pre-arranged bids

b) Two or more parties submitting similar bids

c) Two or more parties agreeing to submit bids that are too high

d) Two or more parties agreeing to abstain from bidding

e) All of the above

f) a and c

g) a, c, and d

h) a, b, and c

9. What is the Competition Bureau?

a) An independent law enforcement agency responsible for the administration and enforcement of the *Competition Act*

b) The agency responsible for creating and updating the *Competition Act*

c) An independent law enforcement agency that investigates anti-competitive practices and promotes compliance with laws under the *Competition Act*

d) All of the above

e) a and b

f) b and c

g) a and c

10. Possible penalties for offences under the *Competition Act* include:

a) Fines

b) Jail terms

c) Both fines and jail terms

11. It is appropriate to agree with competitors as to who will bid for jobs in certain geographical areas.

a) True

b) False

12. It is appropriate to ignore evidence of anti-competitive behaviour among SRCA members, as long as you are not participating

a) True

b) False

13. Competitors who take turns submitting low bids are behaving in an anti-competitive, and illegal manner.

a) True

b) False

14. Contravention of the SRCA Compliance Program can result in discipline and penalties that may include cancellation of membership.

a) True

b) False

Signature: _____

E-mail completed assessment to:

Administrative Director
e-mail: saskroofing@sasktel.net

APPENDIX C

ACKNOWLEDGEMENT

I,_____reside at_____, and represent the business of_____, a member of The Saskatchewan Roofing Contractors Association. I acknowledge that I and my business are subject to and are required to comply with The Saskatchewan Roofing Contractor's Association's Competition Compliance Program, the goal of which is to promote compliance with the *Competition Act* generally and sections 45 and 47 of the *Competition Act* particularly.

I understand that compliance with The Saskatchewan Roofing Contractors Association's Program is a condition of my business's continued membership with The Saskatchewan Roofing Contractors Association and that failure to comply with the Program may result in disciplinary action, including termination of membership. I also understand that this certification letter is not a guarantee of continued membership with The Saskatchewan Roofing Contractors Association.

I acknowledge that I have read the package of compliance material provided to me, in its entirety. I have completed the comprehension assessment questionnaire and competition compliance training on behalf of the aforementioned business which I represent. I know how to contact the designated Competition Compliance Officer and/or the SRCA Manager if I have any questions or concerns regarding the Saskatchewan Roofing Contractors Association Competition Compliance Program.

Date: _____

Electronic Signature: _____

E-mail this completed acknowledgment to:

SRCA Administrative Director
e-mail: saskroofing@sasktel.net

APPENDIX D

SRCA COMPLIANCE MONITORING AND AUDITING PROCEDURES

1. A designated SRCA Compliance Officer or Compliance Committee shall exist at all times.

2. All active members of the SRCA are to be informed of current Compliance Officer or Committee contact information.

3. A Compliance Officer or Committee shall monitor meetings, activities, and events of the SRCA to ensure compliance with the Competition Compliance Program, and the *Competition Act*.

4. A Compliance Officer or Committee shall audit the SRCA in circumstances where:

(a) An incident has occurred, or a concern has been raised under the Competition Compliance Program, and/or the *Competition Act*; or

(b) 24 months have elapsed since performance of the most previous compliance audit

5. In the event of an audit, a Compliance Officer or Committee shall have reasonable access to SRCA records, files, and correspondence.

6. A Compliance Officer or Committee shall prepare, on an annual basis, a written report detailing compliance monitoring and auditing efforts. This report shall be provided and presented to all active SRCA members at each Annual General Meeting, to provide refresher training and shall include the following information:

(a) Summary of monitoring efforts and outcomes to date

(b) Summary of auditing efforts and outcomes to date

(c) Summary of compliance concerns or issues that have arisen to date

(d) Review of the SRCA Competition Compliance Program, and an explanation of any updates and changes to relevant legislation, or the Compliance Program.

(e) Presentation of compliance risks and goals for the upcoming year

7. The Compliance Officer and/or SRCA Manager shall provide to the Commissioner of Competition the annual statement required by the Prohibition Order.

APPENDIX E

SRCA REPORTING PROCEDURES

1. Should any SRCA member be alerted to a possible contravention of the *Competition Act*, or the SRCA Competition Compliance Program, the following steps are to be immediately taken:

a. The designated Compliance Officer or SRCA Manager should be contacted and made aware of the incident;

b. The Compliance Officer will report the incident to the Board of Directors, who shall report to legal counsel;

c. The Competition Bureau shall be notified if legal counsel opine that an offence to the *Competition Act* and/or the SRCA Competition Compliance Program may have occurred; and,

d. There shall be full cooperation with the Competition Bureau, should they proceed on the matter reported

2. Co-operation with the Bureau may result in immunity from prosecution being granted to those who are first to approach the Bureau on their own behalf. Businesses, as well as individuals, may qualify for immunity. The identity of parties requesting immunity is treated as confidential by the Bureau.

APPENDIX F

COMPETITION BUREAU CONTACT INFORMATION

Information Centre
Competition Bureau
50 Victoria Street
Gatineau QC
K1A 0C9

Toll free at 1 800 348-5358

E-mail: compbureau@cb-bc.gc.ca

Web site: www.cb-bc.gc.ca

Applications under the Commissioner's Immunity Program:

Senior Deputy Commissioner, Criminal Matters(819)
997-1208
OR
Deputy Commissioner, Fair Business Practices (819)
997-1231
Further information at the Bureau Web site (*http://competition.ic.gc.ca*)