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THE INSURANCE NEWSLETTER

Summer 2007

Analysis of the “Soft Market”

Let's put this in the proper perspective. Undeniably, the underwriting as a whole is soft, but there are many components to the market, some of which are relatively stable, a few are actually hard, and many of which are variable.

As we've often noted, the most important influence on your insurance cost is your prior loss experience. Large buyers of insurance are effected more by their own experience than are small buyers. The point is, that large or small, it behooves every buyer of insurance to take the necessary loss prevention and loss mitigation steps to improve one's loss experience. One simple device is to purchase insurance with the largest deductible you feel comfortable with.

Types of insurance are affected differently. For example, liability insurance for contractors in the construction industry have always had a hard market, and for the most part a hard market still exists for most of them. In some areas a hard market has developed for building designers, namely the architects who need Errors and Omissions insurance (E&O).

Some other types of insurance

affected by hard, stable or variable conditions include Directors and Officers liability (D&O) --- (more on this later) --- . Also ,many types of bonds and crime insurance, particularly white collar crime, with thanks to the computer for that. Workers Comp conditions vary by state, as the comp laws vary from state to state.

Underwriting of property insurance is largely determined by the catastrophe exposure. As we've noted before, shore properties ---particularly habitational --- from Maine to Texas --- have a particularly hard time. The definition of “shore properties” varies from company to company. With some it might be within a half mile, with others up to 10 or 15 miles of the shore. One very large company that we do not do business with is not writing any Homeowners business in all of Long Island --- maximum 20 miles wide -- in all of New York City ---- skyscrapers and all --- and in all of Westchester County, whose wooded hills extend to about 70 miles from the ocean.

One more thing. The larger the buyer of insurance the softer the market, other things being equal. It was ever thus. Doesn't Wal-Mart get its goods for less than a local neighborhood store?

To sum up: Certainly the

market as a whole is softer than it was last year, but there are exceptions. Eventually, it will turn around and harden, and a few years later it will soften again.

So What if You're Not a Public Company?

Most people in business may be aware of the fact that large publicly owned companies carry D&O insurance, more formally known as Directors and Officers Professional Liability insurance. What many people don't know is that, aside from publicly owned corporations, many other entities, including very many closely held family corporations, need D&O.

The fastest growing type of organization needing D&O is a condo Board. Many of them are in retirement or vacation communities, wherein the residents have plenty of time to gripe.. The board makes regulations, sets fees, hires and fires people, etc. In short, it runs a business and thus its members are liable for its acts. Condo by-laws usually provide indemnification to the individual board members, so the loss ultimately falls on the board itself.

Somewhat akin to condos are co-ops, which may own and operate real estate or engage in such activities as food purchasing.

Quasi-governmental units such as school boards need D&O. What with teachers' strikes, problems with busing, violence at schools, etc., there can be all sorts of real or imaginary actions against the board and/or its members.

Charitable immunity no longer exists as a live legal doctrine. Hospitals and religious institutions are the leading classes. Hospitable boards are responsible for the quality of medical care along with responsibility for fiscal administration.

Another special kind of non-profit --- or is it such?---are labor unions.

Given the above examples, many of our clients serve on one or more boards. To save your own skin, make sure that any boards on which you serve have D&O. If not, call us.

Now let's turn to the need for D&O by closely held corporations. Claims may be made by employees, suppliers, competitors, customers, creditors, any of dozens of governmental regulatory agencies, and by fellow officers or directors, whether or not they be stockholders.

The last named could well involve siblings, in-laws, inter-generational spats, and of course, one of the ugly outcomes of a divorce. These things do happen!

Foreign Exposures

You may have an operation in a foreign country, or more likely, you may have executives or salespeople traveling overseas on business. Either way, most policies covering your regular domestic operations do not cover the foreign exposures automatically. You must let us know beforehand should any foreign travel or other exposure take place.

In addition, many situations call for political risk insurance, depending on what countries are involved. This would protect your company from loss due to such events as expropriation, confiscation, inconvertibility of foreign currency, contract cancellation, suspension or restriction of export or import licenses, and like matters. Naturally, political risk insurance is scarcely necessary for use in Canada or any of the Western European countries and certainly wouldn't be available in Iraq. But it could be obtained for many third world countries.

One item would be necessary if you sell to any customers in any foreign countries, and that is foreign credit insurance, just as you need domestic credit insurance to protect you against loss if any of your customers go belly up and can't pay your bills.

Please call us for help in any of the above matters.

Heads up on Workers Comp Audits

Six months after the renewal date of your comp policy is the magic date when your experience modification — debit or credit — is determined for the next experience period. Thus, it behooves you to check up on a few things about your recent audit on your recently expired policy. The time to get busy on it is about three months after policy expiration, so that if anything is amiss on the audit you have ample time before the experience modification is determined.

For example, you know Jim Smith has been back to work for several months after he recovered from his back injury. Check to see if he's still carried as an open claim. Mistakes like that

are known to happen.

Another thing is proper classification of payroll. It may show \$200,000 payroll for code #1234, applicable to truck drivers. But during the policy year one of the drivers was shifted to code #5678, a much less hazardous classification, but code 5678 does not appear on the audit and the payroll for code 1234 was \$170,000, not \$200,000. Get the idea?

It's a Whole new Cyber World

Traditional insurance — Property, General Liability, Crime, etc. — falls short of providing complete coverage in the Cyber world. Every business uses e-mail and relies on computers for many phases of its operation, e.g., operates a Website, controls production, etc., etc.

That said, almost every business needs special coverage that goes beyond its regular "off the shelf" policies, which it still needs. Your IT head should be speaking to us. And that brings us to the next article.

Times they are a-Changing

Since we wrote your insurance there have been many changes in policies, forms, and business conditions generally, as noted in the previous article in particular. The coverage we arranged provided you with proper protection against financial losses at that time. It may still be doing a good job; or there may be room for modernization.

Let's review your loss exposures and coverages in light of today's conditions. Maybe we'll suggest to leave everything as is, or maybe we'll suggest improvements. In any event there's no

charge for this check-up. Just phone us and we'll talk it over.

The Life of a Business

Often, the sudden death or sudden disability of the founder / owner / or chief honcho of a closely held company means the end of the company. Key employees, sensing no future for themselves, up and leave. Customers take their business elsewhere. Creditors swoop in to recoup whatever they can. All this is bound to happen when there's no continuity plan.

A Continuity Plan has to be a formal written document to be valid. It might involve a reciprocal buy-and-sell agreement with a friendly competitor. Or it might name a successor — or several — among key employees and/or family members. But it has to be well thought out well in advance by the principal.

Then comes going over the details with the attorney as well as the financial aspects with the CPA. "What's the business worth under varying circumstances?"

And then we're brought in to arrange appropriate life and disability insurance to keep the operation going in new hands. Any kind of buy/sell agreement absolutely needs insurance on all parties.

Contrary to Popular Misconceptions

Mention Long Term Care (LTC) to most people and the typical reaction is something along these lines; "That's just for old people. I'll think about buying it when I'm in my 70's."

Well, one of the country's largest writers of LTC has made public some interesting statistics from its claim files.

Nearly 58% of the submitted

claims were for people under 65. The average age of claimants was 53.

Top causes of claims by those under 65 were: cancer, stroke, neurological disease, dementia, and multiple sclerosis.

Aside from the above info, we should note that the older a person is when applying for LTC the more it will cost in the long run. Premiums jump considerably as the starting age inches upward. It is our belief that, all things considered, the most appropriate time to buy LTC is when one is in the forties. Wait too long and you may not be able to get it at any price.

Speak to us NOW — whatever your age.

Hottest Target for Thieves

Did you guess right? It's laptops. They're easy to lose if you're careless. The loss of the contents if the laptops is used for business — as most are — could be devastating.

Where are they stolen from? Everyplace, but principally from cars, airline waiting areas ("I just went for a cup of coffee"), from houses. They're even forgotten and left on planes and in restaurants.

They're stolen more for the presumed personal information about hundreds — or thousands — of people and businesses than about the value of the machines themselves.

Take 'em with you even when you go to the bathroom!

You May not have Given this your Attention

This article affects all businesses that manufactures, assembles, distributes or sells any tangible

products. (If you're simply in a service business involving nothing that you can touch, feel or see, feel free to skip to the next article).

You know all about Product liability insurance and presumably you carry it. You've certainly heard of product recalls — remember Vioxx? — but maybe you haven't heard of product recall insurance.

Well, it's there and would reimburse the policyholder for the costs related to a recall, whether voluntary or mandated by a government agency. There's the cost of ads in the media, lawyer's fees, the actual cost of getting the stuff back, reimbursement to customers for the loss of sales, etc., etc. It can run into big money.

Obviously, the chief targets are foods and drugs. But there's no limit to the scope of products to recall: anything that may catch fire or has a motor driven wheel or may produce an electric shock, as examples. We can't list everything conceivable.

Call us if you'd like to discuss product recall insurance.

More About Water Damage

It's getting close to two years after Katrina, but it looks as though the major legal problems have been settled in some compromised fashion. We don't have to repeat what you've read in business magazines, the Wall St. Journal, or the N.Y. Times.

One interesting point was raised by some of the plaintiffs, namely, that the flooding of New Orleans was not covered by flooding as a natural cause, hence excluded, but was caused by the negligence of the Army Corps of Engineers in designing and construction of the levees that gave

way. Thus it was not a flood but man-made negligence!

This brings up another point closer to home. Some would argue that sewer back-up is not a flood but rather the result of negligence by some unknown parties. Nevertheless, Homeowner policies generally have these distinct exclusions:

Surface waters of all kinds, including floods
Water that backs up through sewers and drains
Water below the surface of the ground

This seems quite clear. Many insurers will grant coverage for sewer backup for a modest addi-

tional premium. Some few don't exclude it.

While on the subject of floods, it would seem that everyone lives in a flood zone. Recently in April the northeast was hit with a record breaking rainfall. Just as an example, New York City was hit with 14 inches of rain within a two day period. A number of towns in Northern New Jersey and lower Westchester were devastated with some houses totally demolished. And as far as we know, very few had flood insurance.

Live high up on a hill? You're not immune, as flood insurance includes mud slide.

The time to think about flood insurance is now, because once you apply for the coverage there's a 30 day waiting period before it becomes effective

Another reminder. Coverage is available in the NFIP — the National Flood Insurance Program — only in communities that qualify. Your community may not qualify solely because it never applied to qualify. This is a common situation.

Incidentally, when Noah turned on the Weather Channel, the prediction was 100% chance of rain for the next 40 days. Remember, you heard it here first.

HELP IS ON THE WAY !!!

If you are self insured, you know about the rising costs of health insurance. You should really talk to us about a new product we have introduced. Forrest Sherer Insurance recently entered into an agreement with Medical Claims Review (MCR), a company that specializes in auditing both professional and institutional medical claims. These folks have about twenty years of experience in the medical business and, for the last six years, have established a base of about 1,200,000 Current Procedural Terminology (CPT) edit codes.

To make a long story short, as an introductory offering MCR will do a free analysis of your past four to six months worth of medical claims. They have been finding between six to eight percent and sometimes more in overpayments. After executing the HIPAA documents and the agreement, MCR will demonstrate the detailed savings. There is **no cost** and **no risk** to the customer. **WHAT A DEAL !**

***CALL NEIL MARCHESI TODAY
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