

Risk Management – CPLIC Claims Handling Guidelines

FIDELITY & CRIME LOSSES

Note: I've offered some suggestions for some data that should be covered under the captions. In preparing the captioned report, the adjuster should use the accompanying Fidelity & Crime Investigators Guide to fill in additional data.

1) Quick-Start/Summary:

Because these claims can be intricate, I have heard many a client request a summary in case they may not read and digest the whole report.

2) Coverage:

Verify the correct policy number, effective dates, insurable interest, applicable limits and deductibles or other limiting factors.

3) Excess or Concurrent Coverage:

Commercial insured's often have excess or concurrent coverage due to merger and acquisition of other companies, overlapping coverages or separate policies that afford extensions that overlap, etc.

4) Superseded Suretyship:

Because Fidelity & Crime losses often consist of a series of improprieties over an extended period of time, policies from prior years may pick up part of a current loss that originated years earlier. Failing to understand this source of possible compensation is frequently a shortcoming of adjusters.

5) Insured (Obligee):

It is important to establish proper identification of insured, insurable interest, corporate entities acquired through acquisition, etc. I frequently find inconsistencies in insurable interest.

6) Principal:

The alleged perpetrator(s) background check, including criminal and civil, should be done in most cases. Get proper release from employer/insured for your file.

7) Date Loss Discovered:

This is important because the alleged perpetrator should have been discharged at this point. Otherwise, most Fidelity & Crime coverage denies loss by perpetrator after this point.

8) Date Loss Reported – Obvious.

9) Period of Loss:

This must be established to quantify loss, as well as establish periods of applicable coverage, almost always a period of time.

10) Principal's Method of Operation:

Description of defalcation methods(s).

11) Amount of Loss Claimed – Obvious.

12) Verification of Loss:

Proposal or description of the method employed to verify loss. Itemization of source documents.

13) Adjustment – Obvious.

14) Prosecution – Obvious.

15) Restitution – Obvious.

16) Additional Investigation:

Complete itemization of what needs to be done to move adjustment process towards closure.

17) Concluding Remarks – Obvious.

I. COVERAGE

- A. Policy Number
- B. Dates
- C. Limits
- D. Deductible
- E. Endorsements affecting loss
- F. Exclusions affecting loss
- G. Defenses to coverage
 - 1. Prior knowledge by officers
 - 2. Theft by named insured
- H. Review application for coverage
 - 1. Breach of warranties by insured regarding:
 - a. Audits
 - b. Inventory control
 - c. Bank account control
 - d. Computer control
 - e. Securities
 - f. Precious metals
 - g. Employee benefit plans
- I. Proper filing of Proof of Loss
- J. Questions to be resolved

II. EXCESS OR CONCURRENT COVERAGE

- A. Other sources of coverage
 - 1. State required bonds
 - 2. Municipality required bonds
 - 3. Licensed bonds, etc.
 - 4. Professional associations
 - 5. Property policies may contribute
 - 6. Other crime coverage
 - 7. Coverage required by franchiser
 - 8. Coverage required by licensor
- B. Employee dishonesty policy excess over others

III. SUPERSEDED SURETYSHIP (Loss sustained during period bond or insurance)

- A. Get complete copy of all prior policies or bonds as applicable or feasible:
 - 1. Verify:
 - a. Contiguous effective periods
 - b. Coverage loss as defined by this policy
 - 2. Establish:

- a. This limit is part of, not in addition to, limits of prior coverage.
- b. Compare deductibles and apply as warranted.

IV. INSURED

- A. Overview of insured (as applicable)
 1. Nature of business
 2. Revenues
 3. Number of employees
 4. Number of facilities or plants
 5. Insurable interest
 - a. Joint insured
 - b. Consolidation/merger
 - c. Franchise/franchisee
 - d. Licensor/licensee
- B. Contact person; title
 1. Identify all persons having knowledge of incident (names, titles).
- C. Has company sent instructions on filing Proof of Loss

V. PRINCIPAL

- A. Legal Representation
- B. Complete background
 1. Names, aliases
 2. Vital statistics
 3. Social security number
 4. Residence history
 5. Medical history
 1. Substance abuse
 2. Rehabilitation program
 3. Institutionalization
 6. Family members, names and addresses
 1. Marital status, dependents, alimony, child support
 7. Permanent contact persons
 8. Education
 9. Employment history
 10. Income sources
 11. Handwriting sample, if warranted
- C. Legal Status
 1. Employee
 2. Independent contractor
 3. Personnel agency employee
 4. Franchisee or employee thereof
 5. Licensee or employee thereof
 6. Other as defined by policy
- D. Financial Status
 1. Personal bank statement
 1. Income tax records
 2. Assets
 - a. Realty
 - b. Personal
 - c. Boats
 - d. Automobiles

3. Credit history
 - a. Debts itemized
 - b. Monthly debt service
 - c. Status of loans
 4. Public records
 - a. Suit index
 - b. Federal tax
 - c. Grantee/grantor
 - d. Lis pendens
 - e. UCC
 - f. General execution docket
 - g. Crime index
 - a. State court
 - b. Superior court
 5. Employment credits
 - a. Salary or commissions withheld
 - b. Cash bond
 - c. Vacation earned but not taken
 6. Principal's intent regarding restitution
- E. Confessions
1. Accomplices
 2. Admitted methods of defalcations
 3. Admission as to amount

VI. DATE LOSS DISCOVERED

- A. Date loss confirmed by the insured
- B. How discovered/confirmed
 1. Date suspicions arose
 2. Individuals involved in discovery
 3. Chain of command from individual discoverer to insured's officers
 4. Internal memos dealing with discovery process
- C. Establish discovery period or optional discovery period as addressed by policy

VII. DATE LOSS REPORTED

- A. When
- B. How
 1. Phone
 2. Letters, etc.
- C. To whom
- D. When report acknowledged and by whom
- E. Reporting requirements met
- F. Proof of Loss filed within proper time

VIII. PERIOD OF LOSS

- A. When started/when stopped
- B. Will superseded suretyship clause be invoked?

IX. PRINCIPAL'S METHOD OF OPERATION

- A. Insured's opinion
- B. Principal's admission

C. Adjuster's conclusion

X. AMOUNT OF LOSS CLAIMED

- A. Amount stated on Proof of Loss
- B. Damages by category
 - 1. Money/securities
 - 2. Other property
 - 3. Premises
- C. Less any credit:
 - 1. Salary
 - 2. Commissions
 - 3. Cash bond
 - 4. Vacation owed
 - 5. Franchise/licensor charge-backs against royalties
 - a. Any other

XI. VERIFICATION OF LOSS

- A. Itemize documents presented
- B. Relevance of document in support of loss
- C. Defenses or objections to documentation

XII. PROSECUTION

- A. Criminal authorities
 - 1. Local police
 - 2. State police
 - 3. District attorney
 - 4. Federal authorities
 - a. Alcohol, Tobacco & Firearms
 - b. Drug Enforcement Agency
 - c. Federal Bureau of Investigation
 - d. Internal Revenue Service
- B. Basic information to be obtained from authorities
 - 1. Lead investigator or litigator
 - 2. Addresses and phone numbers
 - 3. All available records - police report, indictments, liens, levy/seizure docs
 - 4. Seizure of incriminating documents possessed by principal
 - a. Notes, notebooks
 - b. Software
 - c. Ledgers
 - d. Recordings
 - e. Photographs
- C. Arrest information – bail/bond
- D. Trial
 - 1. Venue
 - 2. Dates
 - 3. Litigants

XIII. RESTITUTION

- A. Civil litigation potential
- B. Existing judgment, lien, promissory notes against principal

- C. Accountant liability
- D. Bank liability
- E. Other auditors liability
 - 1. Stock brokers
 - 2. Consultants
- F. Contribution or indemnity by other carriers
- G. Private security liability
- H. Lessor obligation
- I. Franchisee liability per franchise agreements
- J. Temporary personnel agency
- K. Executive Search/Head hunters
- L. Character/Psychological Test Experts
- M. Automated Payroll Service

XIV. ADDITIONAL INVESTIGATION

- A. Itemization of activity needed to conclude adjustment of loss.