

SIMMONDS ON BANK INSURANCE

Edition 6-2

Consulting On, But Never Selling, Insurance

April 2012

Your Customers, Your Liability, and Protecting Your Bank's Assets

Insurance is all that stands between your assets and litigation. It's your liability insurance that protects you from the impact of lawsuits. A major source of those suits is, unfortunately, your customers.

This article will show how insurance protects you from customer lawsuits using the policies and coverages that are most common in the bank insurance world. Your insurance advisor can tell you the weaknesses of your coverage.

■ **SCENE 1: TRIP & FALL** Customer Jane Smith falls down your stairs. Her medical bills reach \$50,000. She is out of work for four months and will forever walk with a limp. Your general liability insurance is the place to turn for bodily injury to customers. Most banks have \$1,000,000 of coverage here, then an umbrella policy that provides coverage above the general liability. The policy pays for the defense costs as well as any award to the plaintiff.

■ **SCENE 2: LOAN DISCRIMINATION** A customer alleges that you put them into a high-rate loan based on their ethnicity. Your banker's professional liability insurance should include lender liability protection. Coverage is available for both the defense of the allegation and awards made.

■ **SCENE 3: HARASSMENT** Customer Gina Packard alleges that an employee of the bank is sexually harassing her. Gina's accusation is not bodily injury, so there is no coverage in the general liability policy. The umbrella

policy is similarly not triggered either. Recognizing the potential gap in coverage, most bank insurers are now offering third-party harassment protection as an add-on to the employment practices liability insurance. Check with your agent.



■ **SCENE 4: NEGLIGENT TRUST ACTIONS** Trust customer Angel Smith alleges that the value of her account has declined precipitously and that the bank has not been prudent in the management of the funds. Banker's professional liability insurance can include coverage for trust department errors and omissions.

■ **SCENE 5: CAR INJURES PEDESTRIAN**

An employee driving their personal vehicle backs into a customer walking across the bank's parking lot. While the employee's personal insurance policy should respond, it will not provide any coverage for a suit against the bank. Hired and non-owned auto insurance should step in to protect your institution.

■ **SCENE 6: ACCOUNT MISTAKES**

A customer alleges that the bank did not manage her deposit account properly, causing a loss of interest income as well as emotional distress. Banker's professional liability insur-

ance should be in place for just this type of loss. Make sure your coverage includes claims brought by depositors.

■ **SCENE 7: NO INSURANCE** A mortgage customer dies. His estate claims that there should have been life insurance on the loan. Properly designed banker's professional

Continued on page 4

Bank Insurance Commentary — Gathering Information



Bank insurance is more than a job for me. I enjoy the industry: the way bankers work, the idea of finance, interest, and value for performance. I like the fact that I can work with great people all over the US. I find the insurance policies insurers offer to banks interesting. I also see the value I can provide a bank, its directors, and even the bank's insurance agents. My clients get better insurance from my relationship with them.

TELL ME ABOUT YOUR RENEWALS & CLAIMS Share your insurance experiences with me. Tell me about what happened in your last renewal. Did your agent present several insurers or new coverages? Did your premium go up?

The more information I have, the more valuable I can be. When banks share their experiences I learn more, allowing me to help more. I want to know what is going on out there.

I'm also interested in hearing about your claims experiences. Claims allow me to view the policies in the banking world from a more practical perspective. Sharing your claims lets me see more of what

is going on out there. I learn about an insurer's approach and how lawyers are interpreting the language of an insurance policy.

My job is to help my bank clients manage their risk. Learning from your experiences helps me do that job better.

WHAT DO YOU THINK... OF YOUR INSURANCE AGENT? In my work with banks I am always looking for great insurance agents. Tell me about yours. Tell me what you like. Tell me what you don't like. What services are you getting that make a difference? Is your agent responsive? I'd like to hear not only the good (so I can seek them out) but also the bad (so I can stay away from them). Just send me an email to Scott@ScottSimmonds.com.

WHAT DO YOU THINK... OF THIS NEWSLETTER? Feedback is always welcome. Your comments will help me make future issues more valuable. Comments, questions, ideas for articles, insurance issues you'd like me to address. All are welcome.

Scott Simmonds, CPCU, ARM

Real Questions | Q & A | Real Answers

Q: What are the main issues in business interruption insurance for a bank?

A: First, business interruption insurance for a bank pays the increased cost of doing business after a fire, windstorm or other insured property loss. Lightning hits a branch building, for example. The branch is out for two months during reconstruction. In that time the bank rents a modular bank branch and puts some employees up in another branch. Also called extra expense coverage, the insurance pays the cost of the rent for the unit as well as the cost of relocating employees.

Three issues:

One, buy enough insurance at each location. I talked about this in the February issue. Here is a formula I came up with: Take the



number of people who work at the location in question, and multiply it by \$5,000. Add \$100,000. If the location is your computer

center, add \$50,000. Consider the result in the formula. Consider your operation. Consider doubling the number from the formula. (That is to say, the formula is not perfect. Use your best judgment and then buy more insurance.)

Two, consider coverage for extra expenses resulting from the interruption of utilities — even when your building is not damaged. Tough to run a bank with no electricity. Extra expense coverage can pay the expenses of a generator, for example.

Three, go back to the amount of insurance you picked and buy more. Nobody has ever told me that they had too much extra expense coverage after they suffered a loss.

Note: Your questions for this section are welcome. Email Scott@ScottSimmonds.com.

How Does A Bank Insurance Review Work?

Well over 75% of the calls I get are from bankers who want a review of their bank's insurance coverage. Most often there are no specific issues of concern. The bank is looking for an unbiased opinion of the insurance program. The process is straightforward: Send me your policies and other information. I review them, ask some questions, and report the issues I find. My work includes recommendations that will improve coverage. Once I get the info I need, I can finish a review and have your bank moving towards improved insurance coverage within 15 days.

It all starts with a phone call or an email.

Here is a timeline from one of my recent projects:

■ **DAY 1:** CFO of ABC Bank emails me. He is interested in a review of his bank's insurance. We discuss his bank's situation, current insurance, and his objectives. The call takes less than twenty minutes. Later that night I email a proposal that outlines the project's objectives, accountabilities, and fee.

■ **DAY 5:** The CFO gets back to me, asking to move forward. He signs the proposal and cuts me a check for my fee. The bank emails me copies of the policies. I forward a survey of exposure questions to help me understand the bank. I start my review.

■ **DAY 15:** I email the CFO a copy of my findings to be used in our phone call later in the day. At the appointed time we review the issues and I provide my recommendations. The CEO, CFO, and SVP of the bank are on the call. We set action plans and accountabilities for each issue.

■ **DAY 16:** I send the call participants a summary of the issues we discussed, clarifying my recommendations. The bank is free to call me for further discussions. I often talk with the bank's agent about my suggestions. We are all on the same team.

To start the process, send me an email at Scott@ScottSimmonds.com or call me at 207-284-0085. After a short conversation, I will send you a proposal for your consideration.

With a review of your bank's insurance, you will have a better understanding of your insurance. You'll know the coverage you have, and the coverage you don't have. You'll have specific recommendations on how to improve your coverage, and tactics to broaden your insurance protection.

It all starts with a phone call or an email. ■

How To Renew Your Bank's Insurance

Your insurance is coming up for renewal. What are your options? Who do you include? What actions should your agent be taking for you? How many insurance companies should be in the process? What coverage is important? How much insurance should you consider?

I'll cover all of these and more in my April teleseminar. Forty-five minutes of solid information you will not hear anyplace else. Questions are encouraged and discussions are welcome. If you manage insurance for your bank, you need to be in on this teleconference call.

When: April 10, 2012 - 1:00 p.m. Eastern

Where: Call in and listen from any phone

Bankers, register for free by emailing Scott@ScottSimmonds.com or go to www.ScottSimmonds.com/teleseminar. No obligation, of course. Seats are limited. Register now. ■

Listen To Our Prior Bank Insurance Teleseminars

February, 2012 - *Executive Risk And D&O Update*

December, 2011 - *Other Coverages In Your Bank's Bond Plus Civil Money Penalties Insurance*

October, 2011 - *Lender Asset Protection Insurance*

August, 2011 - *What You Should Know About Your Bank's Insurance*

June, 2011 - *D&O For Dummies*

April, 2011 - *Banker's Bond Bugaboos*

February, 2011 - *Bank Insurance 101*

Email me at Scott@ScottSimmonds.com for free access to my download page.

Upcoming Teleseminars

April 10, 2012 - *The Bank Insurance Bid Process*

May 15, 2012 - *Bank Insurance 101 For Bankers*

June 12, 2012 - *Claims Management For Banks*

July 17, 2012 - *Bank Insurance 101 For Bankers*

August 14, 2012 - *Workers Compensation 101 For Bankers*

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Continued from page 1

liability insurance should cover this event. You might also have coverage under your mortgage impairment coverage for such errors.

■ **SCENE 8: VIOLATION OF PRIVACY**

Hackers get into your computer system. Six months later you are sued by a customer for the breach of private information that occurred. Look to your bank's cyber liability coverage for this one. It is the classic violation of privacy claim. Make sure you have coverage for non-computer privacy issues too — like the computer printout that a loan officer leaves in a coffee shop.

■ **SCENE 9: LIBEL** A customer sues the bank, alleging that a loan officer defamed him to a third party. Your bank's general liability coverage has a second section called personal injury. Protection is included for libel, slander, false arrest, defamation of character and wrongful eviction.

■ **SCENE 10: DISCLOSURE OF INFORMATION** A bank customer is involved in a takeover of a competitor. Officers of the bank are overheard discussing the transaction. The stock price of the target company goes up. The disclosure of information is blamed for the price increase. This one could be in the directors and officers coverage (if specific officers are named) or in the banker's professional liability coverage.

■ **SCENE 11: LOSS OF BUSINESS OPPORTUNITY** The bank fails to properly execute a wire transfer, causing a customer to

lose a lucrative contract. Again, we turn to the banker's professional liability insurance.

■ **SCENE 12: BREACH OF FIDUCIARY DUTY**

The bank is accused of improperly managing an IRA account such that funds are improperly transferred, allowing customer funds to be lost to fraud. Again, this is a banker's professional liability claim.

■ **SCENE 13: FAILURE TO REQUIRE FLOOD INSURANCE**

A customer's home is destroyed by a flood. At loan closing, the bank missed that the property is in a flood zone. This is a bit of a curveball. Mortgage impairment coverage can provide errors made in flood zone determination. Technically, the mortgage policy isn't a liability policy. However, the contract can cover failures in the bank's procedures such as flood zone errors and failure to follow loan guarantee requirements. This could also fall into the lender's liability section of the banker's professional liability coverage.

Clearly, the above examples are not interpretations of specific policies your bank might have in place. Bank liability insurance is complicated and ever-changing. While insurers are able to customize coverage, they often do not, as they have not been asked to. Many insurance agents are generalists and don't understand the intricacies of the special insurance policies purchased by bank customers. Talk with your agent about the above scenarios. Consider an unbiased insurance review as part of your due-diligence process. Give me a call. I'm glad to discuss your options. ■



White Papers & Reports

Get your free copy of our bank insurance reports and white papers. Just email me at Scott@ScottSimmonds.com.

HOW MUCH COVERAGE? Recommended insurance limits for banks. Do you have enough? Includes bond limits, executive risk, umbrella liability, cyber liability, and property insurance.

QUESTIONS TO ASK YOUR INSURANCE AGENT: Sixty questions to ask your insurance agent to help you understand your bank's insurance coverage.

HOW TO FINE-TUNE YOUR BANK'S INSURANCE PROGRAM: Straight talk on your bank's insurance coverage.

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