

Accountants Professional Liability Insurance

ASPIRE CONFERENCE 2024

In Partnership with Forrest T. Jones & Company

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- Claims scenarios are based on actual claims, composites of actual claims, or hypothetical situations. Resolution amounts are approximations of both actual and anticipated losses and defense costs. Facts may have been changed to protect confidentiality.



Agenda

- **Accountants Professional Liability Insurance**
 - Review of General Coverage
 - Underwriting Factors
- **Other Coverage Parts**
 - Crisis Coverage
 - Subpoena Response Coverage
 - Pre-Claim Expenses
 - Expense Reimbursement
 - Disciplinary/Regulatory Expenses
- **Claim Examples**
- **Current Trends**
- **Extended Reporting Periods/Retirement Extended Reporting Periods**
- **Resources**



Accountants Professional Liability Insurance



Accountants Professional Liability Insurance

- Claim/Wrongful Act/Professional Services
- Damages & Defense Expenses for Claims caused by Wrongful Acts
- Limit of Liability (Defense Expenses Within Limit/Outside Limit)
- Deductible
- Claims-Made
- Duty-to-Defend
- Duties in the Event of a Claim/Potential Claim
- Exclusions
- Settlement Condition
- Territory



Underwriting Factors

- Location
- Experience/Professional Membership
- # of Professionals/Support Staff
- Revenue - anticipated/actual
- Mergers/Acquisitions/Restructuring
- Areas of Practice
- Engagement Letter Use/Loss Prevention/Risk Management
- Other Professional Services Offered
- Total Number of Clients/>25% of Revenue from any Client
- Outside Interests
- Claim Experience/Remedial Measures



Other Coverage Parts



Other Coverage Parts

- **Crisis Coverage**
 - \$10,000 each event/\$30,000 all events (public relations consulting services)
 - Death/Departure/Debilitating Illness of a Principal Insured
 - Potential Dissolution
 - Incident of Workplace Violence
 - Any other event you reasonably believe will have a material adverse effect
- **Subpoena Response Coverage**
 - \$25,000 - assistance with responding, advice on document production, preparation for sworn testimony, representation at deposition or trial.
- **Pre-Claim Expenses**
 - Assistance with the investigation of a potential claim
- **Expense Reimbursement**
 - Loss of Earnings for Time Taken off Work \$500 per day/\$15,000 per policy year
- **Disciplinary/Regulatory Expenses**
 - \$25,000 each proceeding/\$50,000 all proceedings



Claim Examples



Claim Example #1

- **Failure to Detect Embezzlement or Theft**
 - Retained to perform general accounting services
 - Company's in-house accounting manager provided financial information
 - Office manager, over time, embezzled \$275,000, no concerns ever voiced
 - No engagement letter
 - Accounting firm asserts they were retained for bookkeeping, financial statement preparation and annual tax returns
 - Concern that examination of the checks written could have uncovered embezzlement
 - Demand of \$275,000
 - Case settled prior to trial for \$200,000
- **Risk Management**
 - Engagement Letter - Scope - Communication



Claim Example #2

- **Duty Owed in a Tax Preparation Engagement**
 - Retained to prepare tax returns for some, but not all, entities
 - Later payroll services were also performed
 - No engagement letter
 - All financial information used by accounting firm to prepare the tax returns was entered into the Quick Books software program by the company's bookkeeper
 - Company's partner hires a separate accounting firm & forensic accountant
 - Uncovered \$500,000 embezzlement by the other partner
 - Allegations: failure to conduct spot checks of software, failure to reconcile bank statements, failure to detect embezzlement, failure to recommend bookkeeping techniques designed to avoid/confront potential embezzlement
 - Through depositions and discovery, unclear which entities the funds were embezzled from, difficult to track the alleged missing money
 - Case dismissed, \$120,000 spent in defense costs
- **Risk Management**
 - Engagement Letter - Scope - Communication



Current Trends



Current Trends

Based on Travelers 2011 - 2020 Claims Data

The Total Incurred Cost (damages + defense + expenses)

- The average was over \$55,000
- The average of the top 25% was over \$200,000
- The average of the top 10% was just over \$415,000
- 7 claims closed with a total incurred cost over \$1,000,000
- The largest total incurred cost was over \$2,000,000

Source: Travelers claim data for professional liability claims closed between 2011 and 2020 against insureds in Travelers Accounting Professional Liability program



Extended Reporting Periods (ERPs) / Retirement ERPs



Extended Reporting Periods

- **Optional Extended Reporting Periods**
 - % of annual premium for 12-60 months typically, or unlimited
 - Policy Limit
- **Individual Extended Reporting Periods**
 - Disability/permanently ceases performance of professional services
 - Retires/permanently ceases performance of professional services
 - Dies
 - Premium may apply/may be free of charge



Resources



Resources

- **Risk Management Resources**
 - Newsletter
 - Engagement Letter Matrix
 - Webinars
 - Web-based Risk Management Resources
 - Claim Studies
 - Advisory Bulletins



Q&A



THANK YOU

