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INSURANCE & RISK MANAGEMENT

Directors & Officers Liability

Presented by: Stoya Corcoran
Assistant Vice President

November 25, 2017

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Duties of Directors & Officers

Not just an issue for public or private company board members. In many ways the duties are the same…

- Duty of Care/Diligence
- Duty of Loyalty
- Duty of Obedience

Who can sue a Non-Profit Board?

- Employees
- Donors
- Members
- Suppliers
- Recipients of Services/Clients
- Government Agencies

all pose risks to the Directors & Officers and the Organization

Why is Directors & Officers Liability Insurance Required?

Directors & Officers Liability

- Protects the personal assets of the directors and officers
- Protects the organization from unexpected expenditure

Employment Practices Liability

- Protects against employment related claims such as: wrongful dismissal, discrimination, sexual harassment, breach of an employment contract, wrongful discipline
- Includes Third Party Employment Practices

Fiduciary Liability

- Protects the organization from exposures resulting from the administration and management of its benefit plans

Directors & Officers and Organization at Risk

Claims Example:

A not-for-profit organization that held a parade was sued by a spectator after one of the volunteer performers tossed a free gift into the crowd injuring the plaintiff. Although the direct damages resulting from the bodily injury may seek indemnity under a CGL policy form, the plaintiff sued the directors & officers for financial damages of $200,000 alleging inadequate safety protocol and training procedures

This claims is still ongoing and no settlement has been reached. Defense costs are accumulating

Employment Practices Liability

Claims Example:

An employee of a foundation was terminated by a board decision. The employee alleged age discrimination. She filed a complaint with the B.C. Human Rights Tribunal against the board members. A year after the initial complaint was filed, the parties attended a settlement conference at the Tribunal and settled the dispute. The foundation agreed to institute and anti-discrimination policy and hold an orientation for all staff on the policy and also brief all board members about the new policy

The matter was settled for over $90,000 including defense costs

Fiduciary Liability

Claims Example:

An employee at a Charity died in a car accident. The primary beneficiary of his group life insurance, his wife, claimed the life insurance benefit paid to her should have been five times her husband's salary not the two times his salary granted. The Charity denied the claim. She sued alleging that her husband had requested the amount be changed from two times to five times weeks prior to his death. The charity denied that any change had been requested

After the Charity investigated the claim, it learned that indeed the spouse had requested the change but the request had not been processed. The claim was settled for $250,000 plus $25,000 in defense costs

D&O Liability Program for Members of Ontario Sailing Association

- AJG partnered with Chubb Canada to put a comprehensive Directors' & Officers' Liability Program for the Members of Ontario Sailing Association

- Pricing for yacht clubs up to $5Mil in revenues for green class(no past claims and no significant financial issues) for the following Limits for the term of December 1, 2017 to December 1, 2018:

$1,000,000 limit $0.00 D&O/FL retention and $1,000 EPL retention premium $ 500
$2,000,000 limit $0.00 D&O/FL retention and $1,000 EPL retention premium $ 675
$5,000,000 limit $0.00 D&O/FL retention and $1,000 EPL retention premium $1,250

- Need 20 minimum to purchase by December 1, 2018 as Chubb is giving bulk buying rates with broad coverage offering

- Above pricing may change upon renewal depending on claims trends

Chubb Not-For-Profit Organization Liability Policy

- Comprehensive Coverage Including Directors & Officers(D&O), Employment Practices(EPL) and Fiduciary Liability(FL)
- The policy provides coverage for damages, judgements, settlements, and defense costs
- Broad definition of Insured Person includes director or trustee, officer, employee or committee member and volunteer acting on behalf of the organization
- Personal injury or publishers' liability
- Defense costs outside the limit of liability - $1,000,000
- Separate limit of liability for non-indemnifiable claims - $1,000,000

Chubb Not-For-Profit Organization Liability Policy

- Investigation costs for a derivative demand - $100,000 Sub-Limit
- Workplace violence expense coverage - $250,000 Sub-Limit
- Employed lawyers coverage - $1,000,000 Sub-Limit
- E&O/Professional Services - No Exclusion
- final non-appealable adjudication
- Representations & Severability
- “For” bodily injury/property damage
- No hammer clause

PRIVACY AND CYBER SECURITY

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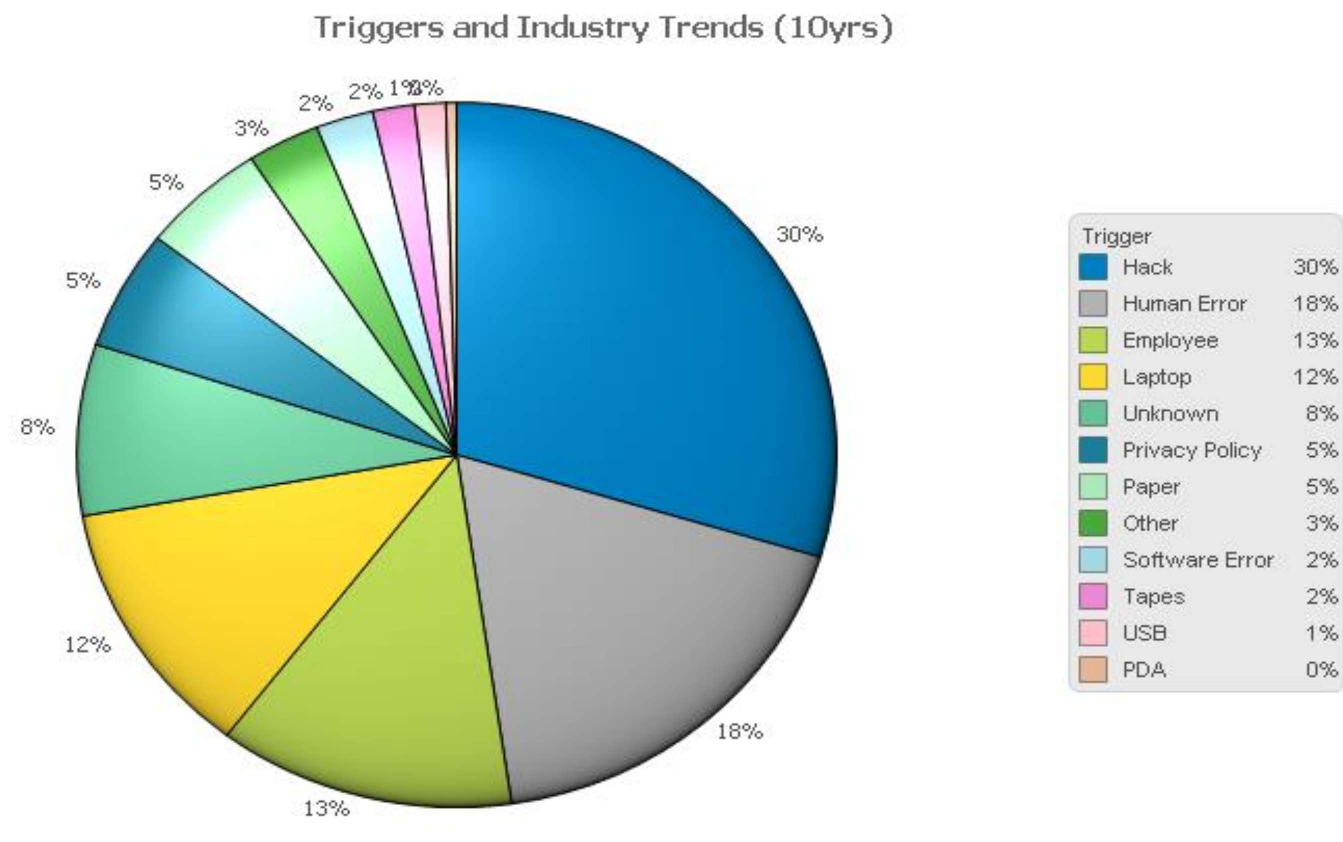
Various Types of Data that have been Involved in Incidents include:

Driver's license numbers
First and last names
Social Insurance numbers
Home addresses
Tax ID numbers
Credit card information
CVV numbers
Phone numbers
Diagnosis codes
Dates of birth
Travel information
Diagnostic information

E-mail addresses
Debit card information
Bank information
Health symptoms
Employee payroll information
Passport number and contact information
Banking information
Salary information
Health insurance numbers
Employee ID numbers
Mobile banking username and passwords

Cyber Claims Trends

as of February 2017)



Source: Chubb Insurance Company of Canada

Cyber Program for Members of Ontario Sailing Association with Chubb Canada

Gross Revenue	Limits	Retention	Sub-Limits	Premium
0 - $2,000,000	$ 500,000	$1,000-$2,500 $10,000(Soc. Eng.)	$250,000 Payment Card $ 50,000 Social Eng.	$ 997-$1,128
$2,000,000 to $3,000,000	$ 500,000	$1,000-$2,500 $15,000(Soc. Eng.)	$250,000 Payment Card $ 50,000 Social Eng.	$1,432-$1,504
$3,000,000 to $5,000,000	$ 500,000	$1,000-2,500 $15,000(Soc. Eng.)	$250,000 Payment Card $ 50,000 Social Eng.	$1,685-$2,035

- ***Higher Limits i.e. $1,000,000 Limits are available with Retention of $2,500-$5,000***

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Chubb Cyber Enterprise Risk Management Insurance Policy

Incident Response	First-Party	Third-Party
Coach Services	Extortion	Privacy Liability +Regulatory + Payment Card
Forensics	Interruption	Network Liability
Notification	Restoration	Media Liability
Credit Monitoring	Cyber Crime	
Public Relations		

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Source: Chubb Insurance Company of Canada

Chubb Cyber Services

Loss Mitigation Services – help limit cyber exposures <u>before</u> a loss occurs

Password Defense	Secure password manager app to help create and use stronger passwords across the web
Online Cyber Education	Two online courses available to all employees to help improve individual cyber awareness
Signature Assessments	Five unique assessment services to help quickly gauge and mitigate key exposures

- Incident Response Plan
- Protected Data Access
- Phishing Awareness
- Network Vulnerability Scan
- Security Monitoring

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Casino-Rama

- **November 10, 2016**

- Internal computer network subjected to cyberattack
- Hackers stole customer, employee, and vendor information
- 12 years worth of data from 2004 - 2016
- Class action suit filed 4 days after the breach was reported
- $60M class action demand

Brockville Children's Aid Society

- **April 2016**

- Employee accused of posting 285 names of families involved with the society on Facebook
- $75M class action against the Society, and its directors alleging:
- Failure to take reasonable steps to protect the private information of constituents
- Breach of fiduciary duty by the board

City of Calgary

- **June, 2016**

- Accidental privacy breach by city employee
- E-mailed information on 3700 city employees including healthcare, income, social insurance numbers, addresses, dates of birth to an employee of another Alberta municipality
- Data was collected between 2012 and 2016
- Class action suit filed, demanding $93M, for ‘neglect’
- City of Calgary issued a public apology in August 2016

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CONCLUSION

QUESTIONS
&
ANSWERS

THANK YOU

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