



E&O Risk Management Newsletter

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We KNOW

for Insurance Agents



E&O

Faking Honesty is Not a Good E&O Tool

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Comedian Groucho Marx once said, “The secret of life is honesty and fair dealing. If you can fake that, you’ve got it made.” As interesting as it may sound, Groucho was not an insurance producer. If he had been, he may have been involved in an E&O claim or two.

Producers and Customer Service Representatives are “tested” daily on their levels of integrity and honesty in the operation of an insurance agency. How these tests are handled can lead to significant consequences. Imagine facing the following scenario:

As a Producer/Account Executive/Customer Service Representative, you are looking to write a specific account that, in the company’s eyes, may not be a “perfect match.” Perhaps the account had a loss or two (or three). Maybe it’s a property account, with a significant amount of the building vacant. Quite possibly, the account was non-renewed by the previous carrier. The list of possibilities is virtually endless. As you complete the application, you arrive at the questions addressing these exposures. What are you thinking? If you “bend the truth,” who will ever know? What could possibly happen if someone did find out?

This issue has been the central focus of more than a handful of E&O claims. In practically all of these cases, the odds are stacked heavily against the agency. In most of these E&O cases, the carrier somehow did find out the truth and, when this happened, the agent caught the full brunt of the carrier’s consternation. Agency staff interacts with carriers and wholesalers on a variety of application issues. The scenario could involve when the application was initially submitted or when the carrier Underwriter contacted the agency with additional questions.

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TIPS TO KEEP IN MIND

- **Lying on an application to get an account written is dead wrong.** It's advisable to find another occupation if lying on applications is how you will conduct yourself. There are thousands of honest, truthful producers who present the carrier with an accurate assessment of the risk and stand by the carrier's decision. Doing anything to the contrary gives the noble insurance industry a bad name.
- **Completing an application with the customer's input is the best practice.** Ask all of the questions and don't presume to know the answer to any of them. Where possible, visit the risk you are trying to insure. This enables you to speak with some degree of credibility on any subsequent conversations. Upon the completion of the application, require the customer to review it and sign it, attesting to the accuracy of the information.
- **Don't presume that you know the answers when handling carriers' follow-up questions.** Note the questions and then contact the customer to secure the answers. Document discussions in the agency file if the customer answers your questions over the phone or in person. Send a letter or email to the customer to memorialize the discussion and the responses, and include a copy in your file.
- **Customers often ask questions try to understand insurance and how it works.** How the producer chooses to answer these questions is extremely important. Providing the customer with incorrect information is wrong. Suppose a producer thinks, "The only way the customer will know I was wrong is if they have a claim. What are the chances of that?" The producer is wrong. An anonymous quote summed it up best: "I'd rather be honest than impressive."
- **Make honesty the basis of your carrier relationship.** The consequences can otherwise be significant. While losing one's license is a definite possibility, the carrier/wholesaler could decide to terminate its relationship with you. Don't expect any carrier to be too understanding and accommodating if it finds out there has been a breach of honesty.

Ensuring that all sales staff knows honesty is the only way and anything outside of that will not be tolerated should be a goal of agency management. Lying to your carriers has many significant consequences, including damaging the relationship between the agency and the carrier. In addition, if the carrier suffers a loss and believes it was misled into writing the account, it could rescind the policy, essentially leaving your agency as the "insurance carrier." That's definitely a position you do not want to find yourself in.

Lender Requests for Replacement Cost Estimators

Recently, we have seen lenders asking insurance agents to directly supply them with replacement cost estimators to verify that coverage is equal to the replacement value of the property.

It is advisable for agents to direct the lenders to obtain replacement values from the client. As an agent, you can supply the replacement cost estimator to the client if they request it. Be sure to include a disclaimer such as the following:

- *The information outlined in the Replacement Cost Worksheet is an estimate of a dwellings value based on information provided by the policyholder. This replacement cost figure was evaluated using industry standard software which calculates replacement cost values. The actual cost to rebuild or replace a dwelling may exceed the limits outlined in the Replacement Cost Worksheet. This estimate is used for information purposes only and the agency does not guarantee that the policy limits provided will be adequate to rebuild the structure. The policyholder has the option of retaining a professional appraisal if there is a question as to whether the replacement cost number is adequate.*

COMING SOON: Our Updated Risk Management Website

Watch for an announcement about our dynamic, newly updated E&O risk management website, which will be available for E&O policyholders with the Utica National companies. You will be receiving an invite to a webinar that will provide an overview of the new design and resources.

With a fresh, easy-to-navigate design, the site will provide a wide variety of useful E&O risk management and related materials we think you and your agents will find helpful ... so stay tuned!

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