

Owner's Professional Protective Indemnity Insurance

By Jeff Slivka, New Day Underwriting Managers

There is no set way to define the American economic recovery. One report seems to contradict another. Optimism is shared with pessimism. Gains seem to accompany setbacks on a daily basis. However, the good news is there has been a steady, if not stellar, rise in activities and profits among several business sectors over the past few years.

According to MarketLine, a publisher of business information, the global construction and engineering industry is expected to be worth over \$3 trillion in 2015, while the American Institute of Architects' (AIA) semi-annual Consensus Construction Forecast estimates that the non-residential building industry in the U.S. will grow by another 8 percent in 2015 after posting about a 5 percent increase in 2014.

However, opportunity and risk cannot be disassociated from one another in today's construction environment. This is especially true of the professional liability and design risks that regularly accompany even basic building projects. Subsequently, many owners have recognized the need for their design teams to evidence professional liability* insurance, while in some instances even funding the purchase of a project-specific professional liability insurance program that insures the entire design team against design liability. If structured and endorsed properly, the owner will then be indemnified against the damages, claims and expenses incurred as a result of

negligent acts, errors and omissions arising from the design team's services.

On the upside this means ensuring that quality professional liability insurance is in place to protect the significant players on the project. However, should the owner need to file a claim as a result of design errors, the downside is that the issuing carrier will use this same policy to defend the design team against the owner's claim. In the end, the defense costs alone could even result in the possible depletion of a significant portion of the limit of liability.



While purchasing project professional liability insurance for the design team may make sense in some instances, owners of large construction projects should be aware of the alternatives. This includes a careful review of the benefits provided by the Owner's Professional Protective Indemnity insurance (OPPI) when insuring against professional liability. Offered to owners of all types of construction projects who hold contracts with design professionals, the OPPI policy provides first-party indemnity to the owner (insured) for damages incurred as a result of negligent acts, errors and/or omissions of the design professionals hired by the owner for the

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project. Under an additional coverage arrangement, defense expenses are also provided to protect the owner from actions brought directly against him due to design errors made by the professionals hired.

The OPPI policy was specifically developed to supplement the designer's professional liability limits available to the insured (owner) rather than replace it, which commonly occurs with typical project professional liability policies. In addition, since it is excess insurance, the cost to place such coverage is normally 30 to 50 percent less than a primary project professional liability policy for the design team. Another important feature is that the owner is the only named insured and sole beneficiary of the coverage so the likelihood of the limit of liability being depleted due to costs associated with defending the design team are dramatically reduced.

Another benefit is that most OPPI carriers offer difference in conditions (DIC) coverage to fill the gaps of the underlying professional liability policy to extend coverage to the named insured in the event the underlying policy is deficient. This includes exclusions for mold and other pollutants resulting from design errors, habitational exclusions, construction management exclusions and the like that may exist in a design professional's practice program.

One thing to keep in mind is an OPPI policy is not only for private owners or projects. Many public entities such as state DOTs, school development authorities and local, state and federal agencies have taken advantage of OPPI coverage as well.

Given the ongoing demands and the evolution of the industry, OPPI policies exist as a very viable alternative for protecting against risk in this highly litigious marketplace. ■

**The market for project specific professional liability is narrow in general and almost non-existent when it comes to "for sale multifamily residential housing."*

More OPPI Facts and Features

Approximately eight insurers offer OPPI coverage forms, with another four or five entertaining OPPI on an excess basis and several more expected to enter the marketplace.

- The typical capacity for this coverage within any of the primary markets is \$20 million. Most primary carriers will also provide excess, so along with the excess market's capacity, the total capacity is somewhere between \$75 - \$100 million for an ordinary project. More complex projects may yield limits of between \$25 - \$50 million.
- Policy terms of up to 10 years (inclusive of the extended reporting period - ERP) can be offered. In some cases, longer ERPs may be negotiated.
- Contractors Pollution Liability (CPL) can also be purchased in conjunction with OPPI programs at a very competitive price when compared to purchasing CPL coverages independently. This would sit excess of the general contractors CPL coverage.
- In the event the underlying design professional's policy is intact (limits and coverage) at the time of claim payment, the self-insured retention (SIR) under the OPPI policy does not apply. In other words, the SIR is erodible by the covered design professional's available limit.

Risk Management Seminars

Victims, Villains & Heroes: Managing Workplace Drama!

Friday, August 14, 2015

7:30am Registration

8:00am - 10:00am Program

Sexual Harassment Prevention Training

Friday, September 4, 2015

7:30am Registration

8:00am - 10:00am Program

Reserve Early, Seating is Limited!

To register, click on the 'register now' button in the announcement email, or contact Bethany Mongold at mongold@cavnac.com or call 619-744-0540.

LIVE WELL



WORK WELL

August 2015

FDA Bans Artificial Trans Fats by 2018

The Food and Drug Administration (FDA) has announced that artificial trans fats are no longer Generally Recognized as Safe (GRAS) and is requiring that they be phased out of the food supply by 2018.

While trans fat does occur naturally in some meat and dairy products, many processed foods, such as crackers, coffee creamer and margarine, contain artificial trans fats. Artificial trans fats are created in partially hydrogenated oils (PHOs), which are oils that have been infused with hydrogen. This process keeps the oils solid at room temperature, and is used to maintain flavor and increase the shelf life of processed foods. Intake of trans fat has been shown to cause various health problems, including high cholesterol and coronary heart disease.

Strengthen Your Core with Plank Exercises

Core muscles are one of the most active muscle groups in the body. Whether you are typing, putting on your shoes, vacuuming or playing basketball, you are engaging your core muscles in some capacity. Because you use core muscles for so many activities, it is important to keep them strong and flexible. There are several specific benefits to maintaining a healthy core:

- Strong back muscles. Many people suffer from debilitating low-back pain. A strong core can relieve the lower back from extra strain and pressure.
- Improved balance and stability. A strong core stabilizes your whole body, increasing your range of motion and decreasing your risk of falling.
- Good posture. Often overlooked, posture is an important factor in overall health. By standing tall, your core muscles can minimize wear on the spine and allow you to breathe more deeply.

Core fitness should be factored into any exercise plan. The plank pose is a popular and effective exercise that is great no matter what your fitness goals are.

To try the plank, get into a pushup position. Bend your elbows so your forearms are resting on the floor directly underneath your shoulders. Focus on creating a straight line with your body from head to toe, and try to hold the pose for as long as you can (if this is too challenging at first, you can try bending your knees). Many people struggle to hold a plank pose for 30 seconds on their first attempt, but, with regular practice, you should be able to hold the position for longer intervals. A good goal if you're just getting started is to work up to a two-minute plank.

Once you are able to hold this position for two minutes, you can move on to more advanced versions of the plank pose, such as lifting an arm or leg, or resting your forearms on an exercise ball.

Get the Nutrition Facts

As you and your family strive to eat healthier, you should be aware of what is in the food you consume. The best way to know what is in the food products you buy is to read the nutrition facts on food labels.

The following information on labels will help you understand how much is in a portion and how this compares to recommended intake:

- **Serving size** – The serving size lists the recommended amount to be eaten by a single person. The rest of the nutrition facts are based on this amount.
- **Calories and calories from fat** – Especially important if you're trying to lose or maintain weight, these numbers tell you how many calories are in each serving and where they're coming from.
- **Percent daily values** – Based on the recommended consumption of 2,000 calories a day, this value indicates how the food product compares to recommended amounts.

When reading ingredients on a product label, keep in mind that ingredients are listed in descending order: ingredients with the greatest amount will be listed first, followed by ingredients used in lesser amounts.

Food Label Breakdown

Serving Size

Calories and
Calories from Fat

Percent Daily
Values (based on a
2,000-calorie diet)

Nutrition Facts			
Serving Size 1 Cake (43g)			
Servings Per Container 5			
Amount Per Serving			
Calories 200 Calories from Fat 90			
		% Daily Value*	
Total Fat 10g			15%
Saturated Fat 5g			25%
Trans Fat 0g			
Cholesterol 0mg			0%
Sodium 100mg			4%
Total Carbohydrate 26g			9%
Dietary Fiber 0g			0%
Sugars 19g			
Protein 1g			
Vitamin A 0%	•	Vitamin C 0%	
Calcium 0%	•	Iron 2%	
* Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:			
	Calories:	2,000	2,500
Total Fat	Less than	65g	80g
Sat. Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g

Fruit Salad with Yogurt

This summery salad incorporates fresh fruit, yogurt and almonds for a satisfying and healthy dessert.

- 2 cups strawberries, sliced
- 1 cup blueberries
- 1 cup pineapple chunks
- 3 Tbsp. 100 percent pineapple or other fruit juice
- 2 cups plain, low-fat yogurt
- 2 Tbsp. almonds, sliced or slivered

Wash the fruit.

Combine fruit and pineapple juice in a large bowl and let stand for 15 minutes.

Spoon 1 cup fruit salad into a small bowl and top with ½ cup yogurt.

Sprinkle almonds on top and serve.

Yield: 4 servings. Each serving provides 171 calories, 4 g of fat, 2 g of saturated fat, 88 mg of sodium, 8 g of protein and 4 g of fiber.

Source: USDA



Spotlight On



Cavignac & Associates is proud to support local and non-profit civic organizations, including Just in Time for Foster Youth



Mission & Vision

Just in Time for Foster Youth engages a caring community to help transitioning foster youth achieve self-sufficiency and well-being.

They envision a future in which every youth leaving the foster care system has a community of caring adults waiting for them after 18. They believe consistent, long-term help from the heart is the foundation for the success of our youth so that they can thrive and enjoy productive, satisfying lives.

Without family support, young adults are at risk of being homeless, unemployed, and under-educated. Only too often they plunge onto a path of lifelong dependence or prison.

To make their vision a reality, JIT mobilizes a caring community as an extended family for transitioning foster youth. This is done through consistent relationships and emergency resources provided by individuals, agencies, businesses and foundations that share their core values and mission.

While other programs might assist with support such as transitional housing or college scholarships, JIT looks where there is a critical need and fills that gap to ensure that motivated youth reach their goal of self-sufficient adulthood. They also fill the most important gap of all: connections to caring adults, who then become a lifelong support system and the consistent community for the youth we serve.

For more information about Just in Time, go to www.jitfosteryouth.org