

Commercial Insurance Update

Topics Affecting Buyers of Commercial Insurance

MSP C 02/99 – “Crisis!”

February, 1999

Crisis!

How would your company handle a major crisis?

Good news seldom makes headlines, but bad news does. Many media outlets, print and electronic alike, still subscribe to the axiom, “If it bleeds, it leads.” The image you convey at the time of a crisis can make all the difference. Are you prepared?

Following are some thoughts on what you might do both before and after a crisis hits.

Adopt a “People First” Attitude

Those watching, listening to, or reading about your response to the situation are likely to put themselves into your shoes, or the shoes of those who have been hurt, or both. If they put themselves into the shoes of those who have been hurt, they would want to know that you care; that you will do your best for “them,” to ease their sudden burdens.

If outsiders put themselves into your shoes, chances are their hearts would go out to those who have been hurt, and they would use “their” resources to help, no matter what else was occurring, because after all what else could be more important?

Of course, they are not in a position to understand the “everything that’s going on” that only you and those close to you are in a position to see. This is why you need to do or say that which, to their limited understanding, is the “right thing;” what they imagine they would do were they in your position, or what they would want you to do were they

in the position of those somehow harmed.

In other words, *focus on people*. And until the people issues seem solved, let others know that who may be at fault, how much money is involved, how much time will be lost, the potential for litigation – *all of it* – are issues to be discussed later.

Show Up

If an organization really cares about people, the organization cannot be represented by people low in the “pecking order.” Whenever possible, the CEO should be there in person to demonstrate organizational concern, and handle the tough questions. This applies even if it means the CEO has to cancel a vacation.

Rely on Counsel

You will need an attorney to advise you on what you should and should not say, from a legal point of view, and you may need a communications advisor to help you say or not say it. You do not want to appear to be obstructionist or that you or your organization are trying to hide from something you know you did wrong. By the same token, you

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Published by

Cavnac & Associates

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Website www.cavnac.com

License No. OA99520

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do not want to say something that would indicate you were at fault when that may not be the case.

The highest level of interest often occurs in the immediate aftermath of a crisis. At that time, you probably will have not way of knowing what caused the crisis. Get that point across.

And remember to stay focused on people. Accordingly, to a question such as “Do you have any idea what may have caused this?” your best response may be, “We’re concerned right now with making sure that everyone is taken care of. The faster we can get to everyone affected, the better. There will be plenty of time to learn why this happened. Right now our principal concern is helping those who need our help.”

Begin Fact-Finding

You need to begin the fact-finding process as soon as possible, and not just to answer questions posed by the media. Seeking facts early on can help you get information that may otherwise get lost, or twisted by recollection.

Bear in mind that the media may trace down everyone they can in order to ferret out a story. Those who are interviewed may prefer to give answers, even when they know little, in order to attain their “fifteen minutes of fame.” You do not want to discount rumors and hearsay out of hand, but you want to avoid giving them credence, because the first explanation heard often will be the one that sticks.

Categorize speculation as speculation; if you doubt something is true, say so, but stay focused on the principal issue: “I doubt anything like that could possibly have happened. My concern right now is trying to help those who have been hurt.”

If you are asked to speculate, don’t: “You’re asking me to speculate about situations that can’t possibly be evaluated at time like this. Right now, nothing is more important than helping those who have been hurt, and that’s all I’m focusing on.”

As time moves on, you will have many more facts to deal with. Keep your legal counsel informed. Have those with the information speak, because they will be the best sources of information. But do not have them speak if counsel believes it would

be unwise.

Give Interviews

Do not be remote. Do not refuse to give interviews. Be available, but be sure to limit the range of inquiry. Respond only to questions for which you have prepared, based principally on the facts at your disposal.

Be ready to reveal facts that bear upon the issue, but be mindful that many issues are highly complex. As such, what you think the truth might be may not be the truth at all.

When you are asked questions about issues that are less than fully resolved, a good response might be, “Anything I say about that at this time is likely to be a partial truth, because we don’t have all the information we need. We are conducting extensive research and study even as I speak. Anything I say now could mislead people or cause them to reach the wrong conclusions.”

Be Consistent

Being consistent is important. For that reason, you need to take notes about what you say, to whom you say it, and when you say it. If possible, have someone on your staff or a consultant help you. What you have already said should be reviewed before you comment on the same issue or add to it.

Keep Every Promise You Make

You also need to review your notes of what you’ve said to ensure that you keep every promise that you have made and, if you cannot, or if action will take longer than you planned or promised, that you keep people informed. Especially when the whole story is not known, you may be under suspicion as someone who says things to deflect heat, not because they are really meant.

Demonstrate that you are worthy of trust by keeping your word.

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Assess Where You Stand Before Moving Forward

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By keeping track of the process from the beginning, you should be able to assess where you stand after some type of milestone has passed; for example, after medical care has been brought to one and all.

What mistakes did you make? What did you do right? How you should proceed from “there” would be based on what you’ve done so far and what you have learned.

Follow Up on a Need - to-Know Basis

As you gather more information so that you are in a position to release a statement of some type (reviewed by counsel, of course), recognize who needs to be told first. If members of your staff have been accused of wrong-doing, or if they have been hurt or injured, then certainly they need to be told what you have learned before you tell the press.

Where Do You Stand Right Now?

Do you have any type of crisis plan in effect? What would happen were an employee of yours killed on site? If a building or structure you designed were to collapse while it was under construction or soon thereafter? What about the potential of an employee committing a violent act at work?

Although such events are rare, they do happen. Should one happen to you, how you respond could make all the difference. Developing an emergency plan does not take long, and it could be a true lifesaver.

Those Available to Assist

Your plan should identify the various agencies and institutions you could call, depending on the nature of the incident. It should also address the team or type of team you will need.

Your plan should identify the CEO of the firm and others who could be trusted to represent the firm if the CEO were not capable of getting there at the outset. It should also identify specialists in terms of disciplines (e.g., structural, HVAC, etc.)

and specialties (e.g., human resources management).

You know you will need an attorney and possibly an effective communications consultant as well. Who are they? They certainly should be listed in your plan (along with a back-up for each) as well as their office telephone numbers, home phone numbers, pager numbers, and so on.

Putting a Team Together

Who should be on the team in addition to the obvious? From the information given above, at least one person needs to be available to take notes and keep track.

Who should coordinate overall, to help ensure that everyone who should be on hand is? When should the first meeting take place? What types of questions should be asked to help ensure that important information is brought to the surface? Who should be contacted to begin investigating a situation?

Many such needs are predictable, but often overlooked when dealing with a crisis. Having guidance in a plan can be extraordinarily valuable.

Speaking with the Media

Those people who would be in the best position to speak with the media need training in what to say and how to say it. They need to understand the concept of focus and answering questions in their terms, not necessarily those preferred by the media. You might find it worthwhile to work with a local chapter of a national association of which you are a member to suggest that a meeting be given over to the subject of emergency communications planning, dealing with crisis and media interview.

You might also find it worthwhile to have some of your firm’s top executives undergo some media training. Seminars are frequently offered on this topic, but the best assistance is often provided on a one-on-one basis. In that way, those most likely to be “spokespersons” can see themselves respond on videotape and make their own assessments.

Are Others Informed, Trained?

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What about others in the firm who may be involved in a crisis? They need guidance in the form of policy and training. Who should they call in case of emergency? Can one or two members of staff be trusted to coordinate, no matter what?

Has staff been told to take notes of exactly what transpired as soon as humanly possible after the event? Will the coordinator send others to the scene to interview employees immediately after the event, or possibly during it, to obtain fresh recollections?

Has staff been told not to talk to any media representative (or anyone else, for that matter), with the possible exception of emergency services personnel? Do they know to say something along the lines of “I can’t talk about it right now” to a reporter, and when the reporter asks why not, to respond, “I’m sorry, I just cannot talk about it,” and walk away.

Although a topic such as that is certainly not one team members like to contemplate at the outset of a project, it is far better to be prepared than to permit such a problem to catch you off guard, especially if it could lead to finger-pointing of any kind.

May We Be of Assistance?

We may be able to help you and organizations in which you are involved by providing referrals to consultants, by providing guidance relative to insurance issues, and even to certain preventatives, from construction through the development and application of sound human resources management policies and procedures. ✦

Disclaimer: This article is written from an insurance perspective and is meant to be used for informational purposes only. It is not the intent of this article to provide legal advice, or advice for any specific fact, situation or circumstance. Contact legal counsel for specific advice.

NICB: Taking a Bite Out of Insurance Crimes

According to the National Insurance Crime Bureau (NICB), insurance crime nationwide costs \$17 billion annually. In California alone, it is estimated that anywhere from \$1 billion to \$3 billion annually is attributable to crime.

Many of those prosecuted have stolen thousands or even millions of dollars. Here are a few of the NICB’s top cases in California last year:

- In one of the largest insurance scams in the nation, two Los Angeles men were charged with 24 counts of fraud. The men invested in 17 medical clinics and 9 law offices that billed 16 different insurers for services to clients involved in staged auto accidents and phone workers compensation claims. The men defrauded insurers of an estimated \$10 million.
- A Sherman Oaks pharmacist pled guilty to a scam involving under-filling prescriptions and swapping generic drugs for brand names. The scam netted \$4 million. Of 18,000 sample prescriptions, only 2 were legitimate.
- The owners of a leading California roofing firm were charged in connection with an insurance fraud scheme in which they allegedly under-reported their payroll to illegally slash their workers compensation insurance premium by more than \$1 million. ✦