

LOSSPREVENTION LESSONS

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Provided by CalSurance® exclusively for Farmers Agents

*Keeping You
Informed & Protected*

Documentation: How to Have Your Own Back

Insurance Agents are faced with a tough balancing act: How to service a diverse and demanding clientele with the agent's own business interests. Insurance agents play a vital role in the overall economy in that they provide a service to their customer base that protects valuable resources such as property and other capital investments that make it possible for people to feel confident in their business ventures. Yet, the issue that agents must face more and more is, who protects their interests when something goes wrong. More importantly, during business planning and risk management exercises, agents must contemplate what could go wrong at valuable moments during a sales transaction or when called upon to provide service to a customer.

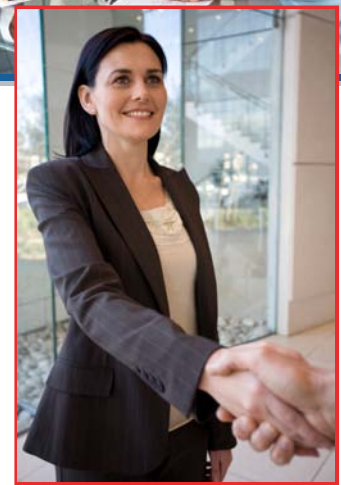
Most insurance agents pride themselves in serving the business needs of their customers while building and growing their own business. While this dual purpose is noble indeed, it is also a dangerous proposition. As a matter of professionalism and ethics, agents must put their customer's needs first. When customers request coverage or service on a policy, the agent is required to act. But, who acts when something goes wrong when the agent is servicing his customer? Unfortunately, it is generally too late for anyone to act once something goes wrong.



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Agents are most at risk for committing errors when engaged in

- ◆ Binding coverage
- ◆ Advising customers
- ◆ Changing coverage
- ◆ Keeping customers



This is why an insurance agent must take measures to protect his/her BACK. Here's how:

Binding coverage is often a key step in the beginning of the relationship between an agent and the customer. Generally, the transaction runs smoothly and the customer's requests are fulfilled. Professionally, the agent has a duty to procure requested coverage. Nevertheless, questions and

disputes often arise as to what the customer requested or expected or when the customer requested the coverage. Agents can begin to protect themselves by keeping regular business records such as telephone logs, emails, faxes and customer service notes for each customer, policy or account. Agents should make sure to expect staff members to document and retain (electronic or hard copy) material documents regarding a customer's request. For example, if a customer requests commercial automobile insurance coverage and provides a schedule of vehicles, the agent's office should keep a copy of the schedule. If a customer asks for or rejects specific coverage, the agent should of course document and retain such rejections. Further, if the customer is relying on a lease agreement or some other contract as a basis for requesting coverage, the agent should obtain a copy of that document for reference and for his files. Agents are reminded that when a customer asks for insurance for "everything" or "anything" that might come up that while there is no such policy, the customer's expectations must and should be properly managed. How? By gently reminding the customer that all insurance policies have limitations, conditions and exclusions and are specific contracts. This is also a good place for the agent to remind the customer to go over the policy and review it carefully to see if it meets the customer's needs.

A customer contacted the agent's office to procure coverage on a commercial property risk. The agent went to the site and inspected the property. He noted that part of the building was being used as an office building by the customer and that the remainder was leased to tenants. The customer told the agent that he only wanted to insure that part of the building that he utilized as an office building as he required his tenants to insure the building per his lease agreements. The agent decided to run quotes with coverage for the entire square footage and for the office portion. The quotes were highlighted to demonstrate the differences in cost and limits of coverage. The customer rejected coverage for the entire building. The policy renewed as procured for four (4) policy periods. A fire loss occurred during that fifth year. None of the tenants carried property coverage for the building as the lease only required that they maintain liability insurance. The customer denied ever having requested limited coverage and shifted responsibility for the insufficient insurance coverage to his agent. As the agent did not retain any documentation regarding the initial communication with the customer, the customer sued the agent for \$800,000 because the agent's specific recollection about what he was told about the lease requiring property coverage was inaccurate.



Advising customers is a tricky proposition for a number of reasons. Agents do not want to hold themselves out as experts; yet, an insurance agent is a professional who is often called upon to provide an opinion as to limits, scope of coverage and type of policies available. Agents must take care to provide their customers with information so as to allow the customer to make an informed decision about their insurance needs. For example, when a customer asks about actual cash value and replacement cost coverage, there is an obvious difference in price involved in the choice. Agents would do well to provide applicable quotes demonstrating the price difference along with an explanation of why the cost is higher for RCV. In addition, agents are reminded

that when quotes are somewhat similar in cost, it is a good idea to document the material differences in the offers. Agents are keenly aware that their customers are generally operating and managing their business enterprises and may not be available to discuss insurance coverage or claims related matters. Agents are reminded that when delivering policy to the customer that was procured via the excess and surplus markets, that the agent should review the policy and should have the customer review it and provide questions or concerns immediately. Agents should keep detailed customer service notes of those touch points where there are attempts to discuss such issues, especially if there is a renewal coming up or if the agent is aware of a change in the customer's risk exposure or tolerance.

Changing coverage from one carrier to another is another dangerous time for agents. Agents are cautioned that insurance products differ from carrier to carrier. If the prior policy was procured by another agent or from another market, the agent is reminded to review the prior coverage and document any reduction in coverage to the customer. The agent would be especially wise to do this for any policy where the customer is shopping rate. For the customer, cheaper is not always better. In addition, agents should also remind their customer in this situation to read the new policy.

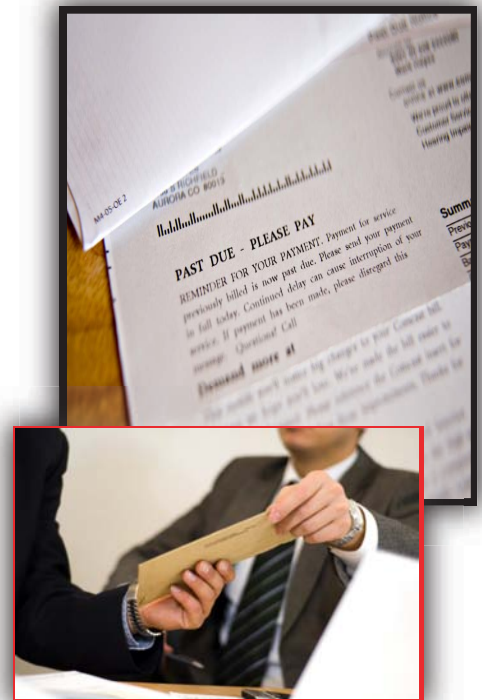
An insurance agent reached out to a former customer who operated a restaurant and bar. The customer decided to give the agent a chance to land the business if he could provide substantially similar coverage at a lower price. The agent immediately began to research the risk and provided quotes that were lower than the prior policy in place for the property, liability and commercial automobile exposures. The customer accepted the quote and awarded the business to the agent. A few months after the completion of the transaction, a customer was killed in a bar fight at the customer's bar. The insurer prevailed in its coverage action and successfully denied the claim accordingly due to an exclusion for assault and battery. The claim was then tendered to the agent's E&O for failure to procure assault and battery coverage and for a reduction in coverage. The prior policy would have provided a defense to the wrongful death claim, that policy did provide a defense in claims involving reasonable use of force by security personnel. The exposure to the agent to his customer for the underlying wrongful death claim is \$2M.



Keeping customers often requires making service promises that exceed an agent's standard duties owed to the customer. For example, an agent agreeing to be on call for a customer's claims around the clock can become problematic for a customer. Another example of this is an agent promising to provide reminders for renewals and premium payments, both of which fall outside of the normal standard of care. In essence, in offering to do such things, an agent is voluntarily undertaking to assume duties he does not normally owe to a customer. When an agent agrees to expand his duties, he should carefully set forth just what he is willing to do. He should make sure that his office documents and tracks all communications.

He should make sure that his records are updated as to address changes, voice and fax telephone numbers, email addresses and designated representatives for insurance matters for the customer.

An agent had established the practice of sending out premium reminders to his customers when his office received cancellation or lapse notices. Several customers did not pay their premium until prompted to do so by a telephone call or email reminder from the agent's CSR. When the CSR went on vacation one year, her temporary replacement failed to make the call to the customer's business manager. The agent was not made aware of the lapse until the customer called to complain that a claim was rejected due to the lapse status of his policy. The carrier refused to reinstate without a gap in coverage due to the untimely payment and the loss. When E&O investigated the claim, it learned of the agent's course of conduct in issuing payment reminders and accepted the claim as adverse to the agent because his office's lack of procedural documentation caused the lapse in promised customer service that his client had come to rely upon in the course of their business dealings with the agent. E&O paid \$191,000 to settle this claim.



LOSS PREVENTION TIPS

Agents should document client communication to help carry out the customer's needs. Moreover, this documentation can prove invaluable to the agent when faced with an E&O claim. Agents must balance growing the agency business with protecting the agency business. While agents should not treat their customers as potential adversaries, agents are mindful that while they are taking care of the customer, to take care and watch their own BACK.



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