

LOSSPREVENTION LESSONS

February 2015

Keeping You
Informed & Protected

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Commercial Brokered Business - The Large Loss

Fights are a fairly common occurrence in drinking establishments, which typically have several security personnel maintaining the peace between patrons who may have had a little too much to drink. Unfortunately, this fight was different; it was over nearly as quickly as it had begun, and the bouncers had little time to intervene. A young man celebrating his birthday had been punched and instead of hitting the ground, which he likely would have walked away from with some bruises and a black eye or maybe a fractured bone or two at most, his temple caught the corner of the bar. Twenty minutes later, paramedics rushed him to the hospital, in an attempt to save his life. Fortunately, the victim survived, but his injuries would need many years of treatment and rehabilitation.

As a result of this altercation, the victim sued the bar and its owner. The bar owner asserted that the agent failed to procure a mirror image replacement policy that included Liquor Liability and Assault & Battery coverage as provided by the previous policy. Furthermore, he asserted that the agent failed to advise of a material reduction in coverage due to the exclusions, as well as the liability limit, which was half of the prior policy's per claim limit of coverage. The agent admitted that although he knew he was replacing an existing policy procured by another agent, he failed to review the prior policy even though he was asked to procure the same coverage for a lesser premium. Moreover, the agent admitted that when he received the quote and binder, he did not review the scope of coverage with the customer or deliver a copy of the policy. This claim resulted in damages paid that approached the agent's per claim E&O limit of \$1,000,000.

There are many lessons that can be gleaned from a terrible tragedy like this one. First and foremost, it is imperative that agents take the utmost care while writing insurance business, particularly when writing commercial brokered business. This type of business frequently generates the most severe claims when agents are not familiar with the coverage and/or carrier. An agent should listen to their client's needs. The least expensive policy is not always the best policy and if a client is requesting replacement coverage for a policy in force, additional care must be given. Any material reductions in coverage from a policy currently in force should be brought to your client's attention with a follow up in writing. There should be written evidence showing that the client was made aware, should a claim ever arise and the facts are disputed. Finally, review and deliver all quotes, binders, and policies with your client.



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