

LOSS PREVENTION LESSONS

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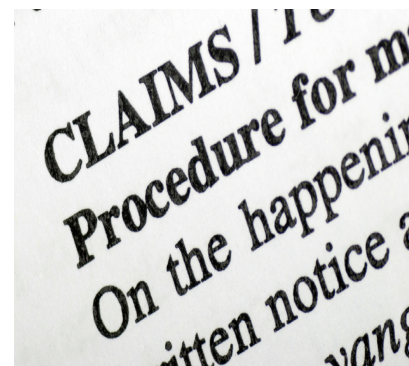
Keeping You
Informed & Protected

An Employee's Dishonesty

A customer purchased a Professional Liability policy that included \$1,000,000 in Employee Dishonesty coverage from his agent. Over the course of about a decade, one of the customer's employees embezzled just over a million dollars from the company. When the long-term theft was finally uncovered, the employee was terminated and a claim was filed with the insurance carrier. Unfortunately, there was a provision in the policy, which only covered losses sustained in the most recent three years. Since the losses had been sustained over the course of a decade, this meant that there was over \$850,000 in losses that would not be covered by the policy even though there was a \$1,000,000 policy in place. The customer received a payout from the insurance carrier amounting to roughly \$150,000. This was well short of his expectation – that he would receive the policy limit of \$1,000,000, which would cover the vast majority of funds that had been embezzled. The shortfall led the customer to pursue an E&O claim against his agent for the remaining \$850,000 that was considered an uncovered loss.

There are two types of employee dishonesty coverage forms used in the industry; a loss discovered form and a loss sustained form. The loss discovered form provides coverage back as many years as the customer has had insurance in force while a loss sustained form has a limit on the number of years coverage will go back. The policy procured for the customer was a loss sustained policy, which is inferior to a loss discovered policy. Unfortunately, in this instance, the customer was not provided with an option. The customer contended that he was never informed that the coverage limit for each year would not continue to provide coverage up to that year's coverage limit for any losses sustained during that year from employee dishonesty regardless of when the dishonesty was eventually discovered. He argued that therefore, he should be allowed to recover their losses up to the \$1,000,000 policy limit. His agent admitted that he did not understand how the policy worked and that he wasn't aware of an alternative employee dishonesty form available in the industry.

It is crucial that you educate yourself about available coverage types so that you can represent available coverages accurately and allow your customer to make a decision regarding what coverage is right for them. This is especially important with lines of business that you may not sell on a regular basis.



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681 S. Parker Street, Suite 300, Orange, CA 92868
Phone: (866) 893-1023 Fax: (866) 893-1198
E-mail: farmers@calsurance.com
California License # 0B02587

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