

Robert E. Underdown, AIC, ARM

Insurance & Risk Management Consultant

Insurance Archaeologist™

Forensic Litigation Consultants Professional Liability Insurance

Even the name sounds ominous. However, it may behoove those of us in the FEWA group to learn more about professional liability insurance coverage (aka Errors & Omissions Insurance or E&O) in general, and specifically what coverages are available through FEWA.

Those of you who attended the 2009 FEWA conference may remember a seminar conducted by Lewis Soffer, an attorney with Miller Starr Regalia, reviewing the effect of the Lambert v. Carneghi case which illustrated that, under certain circumstances, an expert witness can be sued. Another illustrative case is Pace v. Swerdlow. In addition, you will find other cases have been brought. While there has not been a torrent of cases in this area there has been enough activity to make one contemplate purchasing insurance for the exposure. It has been said that needing E&O insurance is like needing a parachute. If it isn't there the first time, chances are you won't be needing it again.

You may ask, so what exactly is Consultants Professional Liability Insurance? The policy definition is "Coverage for damages resulting from negligent acts, errors or omissions on the part of the insured in professional services rendered or which should have been rendered in the insured's professional capacity as a Forensic Litigation Consultant."

To clarify, professional liability is different from the liability coverage provided by a general liability policy that may be a part of a Business Owners Policy (BOP) or a Package Policy. This is because there is a specific exclusion in general liability policies for professional activities (E&O).

While this article is mainly about professional liability, if you do not already have a general liability policy it should also be considered. Most general liability coverage is now provided under what are referred to as Business Owner's Policies or BOP's. Within BOP's, one very important and often overlooked coverage is "hired and non-owned auto coverage". This is usually added for a nominal charge and I highly recommend it.

The first place I'd recommend to look for your BOP would be with your current Homeowners' carrier. Alternatively, I provide information below on an option for a direct placement with the Hartford.

One provider of professional liability is Complete Equity Markets, Inc. (CEM) a specialist agency in Illinois. The policies are issued through National Association of Salaried Professionals Purchasing Group and the coverage is provided by Lloyds of London.

Each policy is individually underwritten based on your answers to a simple two page application. It is easy to download the application from the CEM website, www.cemlins.com. Thus, it is quite simple to obtain a quote for your professional liability exposure so you can decide if you want the coverage. CEM, as many agencies, has a premium finance plan available if you need to break the premium down into more manageable payments.

While I do not recommend that you purchase any specific insurance product, it is my recommendation that you obtain a quote or two and determine if you want to purchase the coverage or to self-insure the risk. One major consideration in deciding to purchase any liability coverage is defense cost provided by the policy. That may be your most important reason for purchasing the policy. Even if you believe that you are relatively judgment proof, the cost of defense can still be a major factor.

Here are some resources for your use in making the purchase decision for your Professional Liability/E&O protection.

The Hartford insurance company: Business Owners Package policies for small businesses: www.sb.thehartford.com

Complete Equity Markets, Inc. (The FEWA sponsored program offering Forensic Experts/Consultants coverage): www.cemins.com

JTL Insurance Services (an affiliate of the Jardine Lloyd Thompson group of companies, London) is another resource for Consultants / Professional insurance: www.jlthfacilities.com/liability/consultants

Robert E. Underdown, AIC, ARM, The "Insurance Archaeologist"™, is a nationwide insurance consultant based in Scottsdale, Arizona. He serves corporations in the area of risk management and the legal community as an expert witness in insurance litigation. Mr. Underdown is an expert in agent/broker; insurance company and TPA standards of care and bad faith claims. In addition, he is an expert in life insurance suitability. Find out more at www.Insurance-Expert.com or call (480) 216-1364.