

# Management Liability Claims Examples

## Accountants



### Directors and Officers

#### Accountant

- ⌚ 18 staff
- ⌚ \$13M turnover

#### Background

A claim was issued against the Director of an Insured accountancy practice for making false and misleading deceptive comments in order to induce investors. A claim was issued in the Supreme Court for the amount of \$650,000 plus costs.

#### Outcome

It was deemed that the Insuring clause was triggered and indemnity was extended to the Insured Director.

After a long and protracted hearing, the claim ultimately settled prior to judgement being handed down.

**Payment:** \$280,000 plus cost of \$250,000.

### Crime

#### Accountant

- ⌚ 27 staff
- ⌚ \$14.5M turnover

#### Background

An employee accountant made unauthorised payments into their personal account rather than into the Insured's trust account. This deception went undetected for over two years when it was discovered that an approximate amount of more than \$50,000 was missing.

#### Outcome

It was deemed that the Insuring clause was triggered and indemnity was granted. The Insured was only able to prove a loss of \$12,000. There was still an exceptional amount of unproven loss. The insurer then appointed a fraud investigator to assist the Insured to prove their loss. Following this, the Insured was able to prove the entire loss.

**Payment:** \$72,300 less their excess.

#### Accountant

- ⌚ 23 staff
- ⌚ \$19M turnover

#### Background

An employee accountant who was employed by the Insured company for less than three months, stole over \$100,000 of merchandise equipment. The employee on-sold this merchandise for the amount of \$30,000 and spent the proceeds.

#### Outcome

The Insured company with the assistance of a fraud investigator was able to prove the loss of the amount of \$105,000. It was deemed that the Insuring clause was triggered and indemnity was granted.

**Payment:** \$105,000 less their excess.

## Employment Practices Liability

### Accountant

- ④ 9 staff
- ④ \$2.3M turnover

### Background

An employee of an Insured accountancy firm was terminated for failure to meet his targets for three years in a row. He issued a claim in the Fair Work Commission for reinstatement and compensation in the amount of \$30,000.

### Outcome

The Insured was able to successfully defend the claim on the basis that they followed correct procedure and offering performance counselling to the Insured before he was terminated. It was deemed that the Insuring clause was triggered and indemnity was extended to the Insured. The Insured's cost of \$10,000 were met by the Insurer and proceedings were later issued against the former employee to recoup the costs incurred.

**Payment:** \$10,000

### Accountant

- ④ 3 staff
- ④ \$1.5M turnover

### Background

A senior employee issued proceedings against the insured accountancy firm where they worked. She alleged that she was passed off for a promotion and sued for the amount of \$120,000.

### Outcome

It was deemed that the Insuring clause was triggered and indemnity was extended to the Insured. The matter proceeded to mediation where settlement was reached.

**Payment:** \$65,000 plus costs of \$15,000 to the employee.

## Tax Audit

### Accountant

- ④ 7 staff
- ④ \$12M turnover

### Background

An Insured accountancy practice received a notice from the ATO advising that they intended to review their income tax, capital gains tax and superannuation payments tax records for the periods ending 31 March 2016, 31 March 2017, 31 March 2018 and 30 June 2018. The Insured then retained specialist tax accountants to prepare an audit report. The entire process took over nine months to complete. The ATO deemed that all was in order and did not impose any penalties. The

Insured, however, incurred Tax Audit Costs totalling \$88,500.

### Outcome

Upon the assessing this claim, it was deemed that the Insuring clause was triggered. The Tax Audit Costs incurred were deemed to be necessary and reasonable and the Insured was reimbursed.

**Payment:** \$87,500 net of its deductible.

# Crisis Containment

## Accountant

- ⌚ 5 staff
- ⌚ \$2.2M turnover

## Background

An insured accountancy practice was thrown into crisis mode with the unexpected death of its Senior Partner. This partner was responsible for approximately 50% of the company's business with many longstanding high net worth clients who did not wish for any other partners to handle their business.

## Outcome

It was deemed that the Insuring clause was triggered and indemnity was granted under the policy. The company incurred \$28,500 in retaining the services of an external crisis management company to develop a crisis management plan, including providing specialist communications to clients to ensure that their business would be looked after and overseen by the other two equally competent partners. In the circumstances, DUAL deemed that the crisis containment extension of the policy was enlivened.

**Payment:** \$28,500.