

Association Liability Claims Examples



Fidelity/Crime

Not for Profit Club

- ⌚ 7 staff
- ⌚ \$2.1 turnover

Background

A claim was made for the loss of \$220,000 worth of alcohol and stock an Insured Association’s recreational premises. Surveillance cameras detected a group of 4 employees and their friends stealing alcohol and stock totaling over \$250,000. The alcohol and stock were sold to unsuspecting purchasers who were not aware that the goods were stolen. The employees were charged and prosecuted by the police and were only able to repay the amount of \$30,000.

Outcome

It was determined that clause 2.2(e) of the Policy was triggered and indemnity was extended to the Insured. The Insured was able to claim the amount of \$220,000 on their policy.

Payment: \$220,000.

The insurer then issued separate recovery proceedings against the fraudsters to recoup the amount of the loss along with the Insured’s deductible.

Not for Profit Charity

- ⌚ 29 staff
- ⌚ \$5.5 turnover

Background

Over a period of 3 years, an employee accountant of the Insured Not for Profit Charity with access to the payroll and the trust account, misappropriated over \$100,000 from the Insured’s trust account. The theft was detected and reported to the police. The police were only able to prove that the employee misappropriated \$15,000.

Outcome

It was determined that clause 2.2(e) of the Policy was triggered and indemnity was extended to the Insured. The Insured engaged the assistance of a forensic accountant who was able to prove direct financial loss of \$105,000. The Insured made a fidelity claim on their policy and as they were able to prove a direct financial loss of \$105,000, they received payment of this amount as settlement of their claim.

Payment: \$105,000.

Employment Practices

Not for Profit Organisation

- ④ 9 staff
- ④ \$12M turnover

Background

A claim was made by four charity workers at a Not for Profit organisation against certain directors, managers and supervisors of the Insured Licensed Club for bullying, harassment, abuse and sexual harassment. Claims were made against the entity alleging that it failed to respond to those allegations. Employees claim combined compensation of \$200,000.

Outcome

It was determined that clause 2.2(c) of the Policy was triggered and indemnity was extended to the Insured. After protracted litigation, the matter settled for payment by the company of \$20,000 per claimant. In addition to this, the company incurred over \$150,000 in defence costs.

Payment:

\$20,000 for settlement;
\$150,000 for defence costs.

Not for Profit Youth Club

- ④ 18 staff
- ④ \$7M turnover

Background

A former employee who was retrenched as part of a company wide reduction in work force commenced proceedings against the company and two managers alleging sexual harassment, intentional infliction of emotional distress, wrongful termination, retaliation, and sex discrimination. The employee had made allegations against the Night Supervisor at the Not for Profit youth club that he had inappropriately touched her and that he regularly made abusive and sexually explicit comments towards her. The employee further alleged that as a result, she has suffered depression and now unable to re enter the workforce due to her mental distress.

Outcome

It was determined that clause 2.2(c) of the Policy was triggered and indemnity was extended to the Insured. The Company was held liable and ordered to pay the former employee \$60,000 plus her legal fees. In addition the company paid \$30,000 in defence costs.

Payment:

\$60,000 for settlement;
\$30,000 for defence costs.

Statutory Liability

Not for Profit Restaurant

- 33 staff
- \$12.5M turnover

Background

An apprentice chef from the insured Not for Profit restaurant was busy preparing for the dinner service. Unfortunately, he suffered severe injury when he sliced his hand on the meat slicer. A full Occupational Health and Safety investigation began which eventually led to the company being prosecuted. The prosecution alleged that the company failed to provide adequate training and supervision to the apprentice.

Outcome

It was determined that clause 3.10 of the Policy was triggered and indemnity was extended to the Insured. The company vigorously denied and successfully defended all allegations. Despite their attempt at defending the claim, the company was fined \$25,000 and incurred close to \$20,000 in legal defence costs.

Payment:

\$25,000 fine; \$20,000 defence costs.

Not for Profit Farm

- 6 staff
- \$1.8M turnover

Background

An Insured Not for Profit farm as fined \$1,200 from the EPA for dumping garbage in what was deemed to be an illegal dumping site in the vacant lot next door. The farm had been using this site for the last 12 years and was under the impression that they were allowed to dump garbage there as many of the other businesses in the area were doing the same.

Outcome

It was determined that clause 3.12(b) of the Policy was triggered and indemnity was extended to the Insured. The Insured was made to pay the fine of \$1,200 and it was deemed to fall within the cover provided under the Pecuniary Penalties provision and therefore covered by the Policy.

Payment: \$1,200.

Taxation Investigation

Not for Profit Games Venue

- 22 staff
- \$9M turnover

Background

An Insured Not for Profit games venue and restaurant who employed over 250 people received a notification from the ATO advising that it intended to audit the insured's income tax and superannuation payment tax records for the period ending 30 June 2015 to 30 June 2016. This was a particular concern as the Insured employed many casual workers and may not have had complete and accurate information. The Insured was unable to collate the required information due to lack of time and expertise on the subject. DUAL

assisted by appointing a specialist forensic accountant and tax auditing firm to complete the audit. The whole process was completed in less than 4 weeks and totaled \$23,050 in fees.

Outcome

It was deemed that Section 2.2 (f) was triggered. The costs incurred were deemed to be necessary and reasonable and the insured was reimbursed the amount of \$23,050 less its deductible.

Payment: \$23,050.