

DUAL CLAIMS EXAMPLES - INVESTMENT MANAGERS INSURANCE

Proven claims experience from the experts

Our dedicated in-house Financial Lines Claims Team includes qualified lawyers with a combined total of over 40 years experience. Our claims officers are dedicated to managing your claim from initial notification right through to resolution. In addition, DUAL utilises specialist law firms and consultants with significant expertise in niche areas such as professional negligence specialists, directors' & officers' liability, industrial relations, work health & safety and forensic crime experts, to ensure our policyholders get the best possible outcomes.

Claim Example	Background	Further reading
Professional Indemnity	<p>Thousands of investors in a failed plantation timber group brought claims in the Victorian Supreme Court, alleging the investment manager and a regional bank had misled them.</p> <p>The class action had sought to void more than \$300 million of loans taken out with the bank to fund the schemes on the basis that investors were misled by the plantation timber group, which collapsed during the global financial crisis in 2008-2009. The class action recently resolved with a \$23 million settlement.</p> <p>About \$20 million of the \$23 million will be paid to the solicitors acting for the plaintiffs to cover their costs, with just \$3 million to be distributed among tens of thousands of investors who sunk nearly \$2 billion into the failed timber group.</p>	Click here for more information
Directors' & Officers' Liability	<p>Senior executives at a collapsed investment bank have been accused of misleading investors who put money into a failed scheme to buy \$US386 million (\$432 million) of railway cars in the US.</p> <p>In a writ lodged with the Victorian Supreme Court, a Singapore-listed mutual fund claims to have lost all the \$US15 million it invested in the venture.</p> <p>Allegations against the executives include that they used "unrealistic" modelling and misled investors over a bridging loan obtained from another bank controlled entity. The Writ alleges that the loan imposed an "unbudgeted capital drain on the transaction and that the executives breached their fiduciary duties to investors and "knew or ought reasonably to have known the representations were false in material particulars or were materially misleading".</p> <p>The plaintiff also alleges financial models prepared by the executives depended on the value of the rail cars continuing to increase and assumed fresh equity or debt could be raised, as required to pay back the loan. It was alleged that the models "failed to take into account all proper considerations and included distorting factors".</p> <p>The plaintiff is seeking the return of the bank's profits, plus damages, compensation, interest and costs.</p>	Click here for more information

The information contained in this fact sheet is meant as a hypothetical guide only. DUAL Australia does not accept any liability arising out of any reliance on the information in this fact sheet. We urge you to consult your insurance broker, the Insurance Council of Australia or the Financial Ombudsman Service for further information. If you are unable to resolve any issues that you may have, you may need to obtain independent legal advice.

Claim Example	Background	Further reading
Employment Practices Liability	<p>A number of recent, high profile cases highlight the necessity for employers to be increasingly vigilant in ensuring that they have adequate Equal Employment Opportunity (EEO) systems in place and to take complaints of sexual harassment and discrimination seriously.</p> <p>Australia is witnessing some of its largest ever EEO claims, in terms of both the amounts sought and awarded for compensation. For instance, a former partner of a large accountancy practice instituted proceedings against all of the partners individually, claiming that they had unlawfully discriminated against her in breach of the <i>Sex Discrimination Act (Cth)</i> (SD Act) and sought somewhere in the vicinity of \$12 million for compensation. The plaintiff's allegations included that notes of a sexual nature had been slid under her hotel door by a colleague while away at a conference, she had been kissed on her cheek repeatedly and, notwithstanding her complaints, she had been subjected to inappropriate comments, including about her physical appearance.</p> <p>Following a hard fought and highly publicised case, it was announced that the plaintiff had reached an out of Court settlement with the firm for a sum estimated to be somewhere between \$3 million and \$6 million.</p> <p>In another example, a senior funds manager filed a claim against it for \$1.2 million. The plaintiff alleged that the fund manager breached the SD Act on the basis that she was bullied and discriminated against while pregnant and during a period of maternity leave.</p>	<p>Click here for more information</p>
Crime Protection	<p>An accountant who siphoned \$45.3 million from her fund manager employer and then embarked on lavish spending sprees at some of Sydney's top jewellery and perfume stores has been sentenced to at least 7 years imprisonment. Files released after the sentence had been handed down show that the company recovered only a third of the \$45.3 million the fraudster misappropriated over a 5 year period. The Paspaley pearls and 8 luxury waterfront apartments purchased by the fraudster were recovered, however as she paid well above market value for the properties, there was a significant shortfall in the monies recovered.</p>	<p>Click here for more information</p>
Statutory Liability & Supplementary Legal Costs	<p>ASIC is making enquiries of a number of responsible entities of registered managed investment schemes regarding their risk management practices.</p> <p>The enquiries are a proactive response to the increased market volatility in global and domestic markets aims to examine the adequacy of risk management and disclosure practices in the current environment. Effective management of these issues leads to less risk being borne by investors.</p> <p>'All responsible entities must have a sound and tested risk management strategy in place.' ASIC Commissioner Greg Tanzer said.</p>	<p>Click here for more information</p>

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