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Underwriters of D & O and Professional Liability Insurance

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This issue... CUG's claims professionals – Vivian Yamaguchi (General Counsel), Gretchen Sievers (Claims Counsel) and Clancy Foley (Claims Representative) – discuss the brokers' role in the claims process.

GS: What do you think a broker can do with respect to claims?

VY: Brokers can be educators for their clients, the insureds. We at CUG are available to insureds and encourage them to call us with any questions or concerns they may have. The reality, however, is that insureds often direct their claims questions to their brokers. We understand that. We know insureds enjoy a direct and prior business relationship with their brokers. We work with the brokers to provide the insureds with prompt, accurate information.

CF: An example of the broker as educator is the reservation of rights letter. Insureds often call their brokers after receiving coverage correspondence, rather than contact the carrier with questions. In many states, a carrier is required by law to provide a coverage position letter within a specific period of time. A reservation of rights letter notifies the insured of possible issues that may preclude coverage. The broker is often the first to receive notice of a claim. The broker, upon receiving notice, can help the insured to understand what to expect in the claims process. The broker can explain the coverage correspondence and that the reservation of rights letter alerts the insured to possible coverage issues. Oftentimes, the claim will not be developed to the point where the coverage issues can be fully evaluated, and yet the law

may require a coverage letter to be sent anyway.

GS: That's true. The broker can also let the insured know it doesn't automatically follow that because a reservation was taken, coverage will be denied. That is what an insured needs to understand, and that is something a broker can help an insured to understand. When the broker has explained to the insured what to expect, the reservation of rights letter is not a surprise to the insured.

VY: CUG, as representative for Old Republic, the carrier, doesn't like surprises anymore than an insured or a broker. We understand and appreciate that having a lawsuit filed against you can be very unsettling. It is in everyone's best interests to know the carrier's coverage position as early as possible. It is also important to know that coverage positions can change as additional information becomes available so brokers and insured should make every effort to provide the carrier with accurate information about the claim. This is the best way to avoid surprises and to work together toward resolving the claim.

GS: It seems as though the bulk of my contact with brokers comes at the time of notification, much more so than at any other time during the life of a claim. I suppose I also hear from brokers regarding claims at renewal. I'd welcome hearing from

brokers at any other time during a claim.

VY: Brokers should feel free to contact us directly with any questions or concerns.

CF: I'd also encourage brokers and insureds to promptly notify CUG of anything that potentially could result in a claim. Rather than second-guessing what is or isn't covered under a policy, they should just send it to us. We can take a look at it and get right back to them.

VY: Yes, brokers and insureds should err on the side of notifying CUG in order to avoid any notice problems. And if Old Republic provides excess coverage, everything that is reported to the primary carrier should also be reported to CUG at the same time. Better safe than sorry.

GS: What would you say sets CUG/Old Republic apart from other carriers in terms of claims handling?

VY: CUG claims professionals have years of experience in handling D&O and E&O claims. We take pride in our personal service. Our goal is to have one claims professional for each account – so if a claim is made during one policy period, and then another claim is made sometime later, during another policy period, you know who will likely handle your claim. You can develop a relationship with that person. You know that the claims professional knows and understands

a relationship with that person. You know that the claims professional knows and understands your business. One person, one account.

CF: Another aspect that sets us apart from other carriers is the open communication CUG's claims professionals share with CUG's underwriters. At other companies, there is much less contact between the claims staff and the underwriting staff because of the corporate structure, the sheer size of the staff. At CUG, there are relationships of many years standing. It is the norm to find a claims professional and an underwriter discussing various issues regarding a claim.

GS: Communication, that's the key. Any final great thoughts?

CF: Yes. My plea is for prompt written notice of anything that might be a claim under the policy. Let us make the decision about what is a claim and what isn't. We don't want an insured to forego coverage by not providing us with notice.

VY: And when providing us with notice, please include as much information as possible, whatever is known about the situation. We don't need to hear just "good news." Send us the "bad news" when you know it – we want to avoid sur-

prises and we can best protect the insureds' interests with full and complete disclosure of the facts.

GS: Thanks, Vivian and Clancy, for talking with me about these issues. I'd also like to encourage any of our readers with specific claims questions to contact us. We'd be happy to answer your questions. We can share the questions and answers with all of our readers in a future issue of this newsletter.

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