

# Risk Management Insights

## Issue 3

# A Closer Look at Errors and Omissions Insurance



Through a periodic review of actual claims that have occurred, we hope to illustrate how valuable an E&O Policy is in managing your business risks. In each of the following cases, the settlement and the legal fees were the amounts paid by the insurance company. The insured paid their deductible on the settlement amount if any.

## Who's Minding the Cargo?

### Damages Sought: \$1,101,300

**Claim Summary:** Coal mining shovels shipped from Australia were diverted from direct delivery to the U.S. and instead traveled first to Korea. While awaiting shipment to the U.S., it was discovered that the cargo was damaged. The shipper claimed that the customs broker in the U.S. failed to monitor the cargo during loading, unloading and while in storage. Consequently, the seller brought suit against the broker in the amount of \$1,101,300 for repairs and other costs.

### Outcome Summary

The attorney appointed to defend the customs broker argued that the shipper had no cause to file suit against them. The Australian shipper had no contract with the broker, rather they were hired by the consignee in the U.S. to secure cargo insurance and to handle customs clearance. The shipper ultimately agreed to voluntarily dismiss the customs broker from the suit.

### Settlement and Payments

Settlement = \$0

Insurance Company Payment (Including Legal Fees) = \$9,500

Customs Broker Contribution = \$0



## Beware of Third Party Missteps

### Damages Sought: \$110,000

**Claim Summary:** A shipment of pipe fittings were loaded onto the wrong truck in Chile without being manifested and without proper Customs documentation. As a result, the cargo was detained by Chilean Customs officials. After unsuccessful efforts to have the cargo released, the shipper hired an attorney who filed a demand for payment in the amount of \$110,000. The amount was to purchase additional fittings to replace the cargo they were unable to retrieve from Chilean Customs.

### Outcome Summary

The lawyer for the insurance company successfully argued that the freight forwarder was not liable for this documentation error. In this transaction, they acted as a shipper's agent only, and according to their terms and conditions (which the shipper signed) they are not liable for actions of third parties.

### Settlement and Payments

Settlement = \$0

Insurance Company Payment (Including Legal Fees) = \$5,000

Freight Forwarder Contribution = \$0



## Mind the Time

### Damages Sought: \$84,592

**Claim Summary:** A customs broker was hired to file protests for rejected product. The protests were filed after the close of the protest filing time period which resulted in Customs and Border Protection declining refunds for duty paid. The customs broker's client filed a formal claim against them for duty they could not recover for the rejected product.

### Outcome Summary

The insurance company appointed counsel to review the protests and determined the protests were indeed filed untimely. Appointed counsel also confirmed the customs broker had no defenses available to them. While the customs broker operates using terms and conditions of service, this was a first time client who was never invoiced for services rendered and never had any opportunity to review the customs broker's terms and conditions of service.

### Settlement and Payments

Settlement = \$74,592

Insurance Company Payment (Including Legal Fees) = \$76,426

Customs Broker Contribution = \$10,000



To learn more about the value of Errors and Omissions coverage, contact us at 1-800-ROANOKE, ext. 1066 or [infospot@roanokegroup.com](mailto:infospot@roanokegroup.com).

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