

Management Liability Insurance

By Jack Buttine

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Management Liability insurance is a combination of both the Directors & Officers Liability (D&O) policy and the Employment Practices Liability (EPLI) policy.

What it does ... A letter from the EEOC asking why Ms. Jones or Mr. Smith was terminated due to an injury or a disability will cause you to incur high costs for legal defense and lost management time. Such letters are common happenings today. Management Liability insurance can reduce your costs and protect the assets of your agency.

This relatively new policy delivers two kinds of protection to agency owners and principals. One, it provides protection from shareholder suits alleging lack of “corporate governance” and, two, it protects against the most common allegations against private companies – employment practices claims such as wrongful termination, discrimination and sexual harassment.

Nearly all claims brought by a privately held agency’s major shareholders or directors and officers are not covered due to an exclusion called the *Major Shareholder* or the *1 Insured v. Another Insured* Exclusion. That is to say that there is no coverage for shareholders suing each other. Exceptions include claims for employment practices liability.

The biggest benefit of Management Liability insurance is the Employment Practices Liability section of the policy.

Sexual harassment claims get the “big press,” but the big claim settlements are for wrongful termination and discrimination. Insurance brokers and companies who write this coverage can provide training for agency staff to reduce the risk of claims.

Examples of employment practices claims are in the news nearly every day. Terminations of key executives and allegations of failure to promote or hire and claims of sexual misconduct by employees at all levels are common in both the trade and business press.

To get a policy or a proposal, the process starts with an application. Completing an application will give you an indication of your risk. The application will ask about your Human Resources policies, turnover in the agency, whether the agency states all employment is “at will,” etc.

Completing the application is a procedure all agencies should do – whether you buy the insurance or not. After you answer all questions, you will have a good idea of what you need to do to lessen your exposure to claims. If you were the insurance company, would *you* offer coverage to your agency under these circumstances?

Any risk manager will recommend investigating Management Liability insurance – there is a lot of ‘sleep insurance’ in a \$1,000,000 policy!