

THE LOSS ADVISOR

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Making Your Property Insurance Pay

by Marvin Milton

There is no more daunting a task in the adjustment of a property and time element claim than when the degree of destruction is so great that the environment and surrounding areas are engulfed by the fall out and there is resulting bodily injury. So follow this loss scenario.

The policyholder was a manufacturer of custom printers' inks and its plant was located in a very congested neighborhood of multi-family residential buildings. On a Sunday in July, apparently some rags in the plant spontaneously combusted and fire broke out which eventually overheated propane tanks that powered fork lift trucks used to move inventory around. The overheated propane tanks exploded hurtling a fire ball through the roof of the factory and landing on a neighborhood three-decker residence causing it to ignite. Eventually another multi-family residence caught fire as well as an adjoining commercial building. A tenant in the first three-decker—a young woman in her thirties—was trapped in the building and barely escaped, although with severe burns on her arms and legs.

At the end of the day, the factory building and all of the machinery, equipment and inventory were a total loss; the loss site and the surrounding streets and sidewalks were covered with printers' ink; two, three family residences and the adjoining commercial structure were literally burnt to the ground; four other residences in the vicinity suffered varying degrees of damage; fire fighting equipment was smeared with disgorged printers' ink; and, of course, the young woman was rushed to the hospital for treatment of her burns.

The applicable insurance coverages left the policyholder in a precarious economic position: about \$1,250,000 covered for the damage to the building, machinery, equipment and inventory and business interruption and only \$3,000,000 for comprehensive general liability. The attorney for the young woman valued her case alone at \$5,000,000.

The immediate task was to marshal the insurance resources to not only accommodate the policyholder's claims for damages to its own property but also to serve as a relatively deep pocket to insulate the policyholder from claims for property damage, bodily injury, environmental impact and, yes, claims from the local fire department to remove the ink coating its hoses, ladders and equipment.

This was no easy task and one that cut across the skills of seasoned property adjusters, astute policy coverage attorneys and informed, aggressive insurance negotiations—in other words, the very talents that Anderson Kill Loss Advisors and Anderson Kill & Olick, P.C. bring to the table.

A couple of issues came quickly to the fore: the insurer launched an

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who's who

Marvin Milton
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and has been a public insurance adjuster since 1958. He is author of articles on insurance subjects which have appeared in national publications. Mr. Milton was also lecturer on business interruption insurance for the Northeastern University Insurance Institute and a Member of the Commercial Lines Industry Liaison Panel.

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immediate investigation into the cause and origin of the fire, probably suspecting some Insured, if not involvement, at least culpability which could become important in the liability aspects of the outstanding claims; and the state Department of Environmental Protection ordered the immediate clean up of the ink-coated streets, sidewalks and property sites.

The monitoring and oversight of the Insurer's investigation into the cause and origin of the fire was very important to make sure that its inquiry was focused and performed with reasonable dispatch for until it was substantially completed and a comfort level achieved, the Insurer would not release any funds for interim payments. Thus, the attorneys played an insistent role in this endeavor and finally succeeded in obtaining commitment to payments well before the Insurer's investigation concluded which indicated that any intentional wrong doing on the policyholder's part was ruled out.

An environmental clean up company was engaged forthwith to assuage the public authorities and the AKO attorneys and the AKLA property adjusters examined every policy term and condition to extract the very last dollar from the additional coverage provisions for debris removal in the property policies. In addition, review of the Comprehensive General Liability coverages, although containing an absolute pollution exclusion, contained language excepting from the exclusion dispersal and releases of toxic substances originating from "the heat, smoke and flames from a hostile fire." This opened a window to claim reimbursement not only for the costs of the clean up of the ink from the streets and sidewalks but also from the coated fire equipment.

The property claims were detailed and submitted to the Insurer and were resolved within a compact time for close to policy limits by the AKLA adjusters. The final piece involved the active participation by the attorneys to drive the settlements for the property and bodily injury claims so that there would be no shortfall for which the policyholder would be responsible. Although the CGL Insurer was obligated to provide an attorney to defend the policyholder against the claimants, it was quickly apparent that the lethargic approach by the Insurer-supplied adjusters and attorney could poison the opportunity for advantage settlement. Therefore, a decision was made to intervene and favorable settlements within policy limits were concluded.

The intersection of all of the relevant policy coverages in this complicated loss scenario could only be managed and implemented by the resources available in AKO and AKLA – there is no other complement of professionals who could deliver such a coordinated and auspicious result.

To learn more about the Loss Advisors Network visit:

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