



Claim Scenarios PrivateEdge[®]

Below are some examples of the types of claims small business may face and how PrivateEdge[®] can protect the interests of both the business and the individuals involved.

Corporate Liability

Misleading Advertising

Real Good Motors Limited had developed a new engine oil that prolonged the life of the engine. It advertised in the local newspaper that the oil would “put your mechanic out of work!”. Unfortunately one local citizen took this quite literally and did not take his vehicle in for servicing, resulting in the seizure of the engine. Real Good Motors Limited thought that it had dealt with the problem when it settled directly with the citizen but the matter made the press and legal proceedings were filed against Real Good Motors Limited for misleading advertising. The legal costs exceeded \$20,000 and settlement negotiations were concluded at \$50,000.

Bridgecorp (Steigrad Decision)

Costs and Expenses

A claim arises that exceeds the policy limit, invoking a charge over the policy in favour of the claimant. AIG advances defence costs via its separate Costs and Expenses policy ensuring that the Insured does not have to fund their own defence.

Employment Practices Liability

Harassment

An incident occurred at a company Christmas party. One of the employees complained of harassment. The employee was concerned that the complaint was not taken seriously and subsequently commenced proceedings which alleged that the company had failed to prevent the incident and take appropriate action when it was reported. The claim was settled out of court for more than \$50,000 with a similar amount spent on legal costs.

Employment Practices Liability

Wrongful Dismissal

Heaps Of Fun Bar discovered that its newly employed bar manager, Steve Lester, had a history of gambling and alcohol abuse. He was responsible for the till and the alcohol in the bar. When the managers found out about his history they immediately terminated his employment for lying in his employment application. Steve took an action through the

Employment Relations Authority against Heaps of Fun Bar for unfair dismissal.

After consulting with AIG, Heaps Of Fun Bar decided to pay a settlement to Steve, rather than going through the courts, as there were issues over the procedural steps they took in terminating his employment. The legal costs amounted to \$8,500 and the settlement was \$10,000.

Employment Practices Liability

Termination/Sexual Discrimination

Jane was a senior employee who felt she had worked hard and contributed to the success of the business over a significant period of time. Yet when it came to her annual review, she had the impression that she did not seem to be offered the same opportunities that she would have received if she was not a woman. Jane complained to her manager that she was being unfairly treated. Shortly after, Jane was dismissed. Jane commenced employment proceedings against the company who ultimately settled the matter with a payment to Jane for an amount in excess of \$80,000. Legal costs exceeded \$35,000.

Crime

Physical theft of assets

A member of the company’s Quality Control Team was friends with the Stock Manager. Discussing their responsibilities in the plant, they identified that controls over damaged stock were lax, with crates of damaged items abandoned in the corner of a warehouse. Disposal procedures were haphazard. The two employees identified an easy opportunity. The Quality Controller labelled undamaged goods as substandard, indicating that they needed to be returned to the factory for disposal. At the factory the Stock Manager packed the goods for destruction and prepared the necessary documentation, arranging for the “faulty” stock to be removed from the premises. The stock was then sold off in pubs and on internet auction sites at large discounts.

The scheme was uncovered accidentally by a company employee after he witnessed the stock being sold at one of the bars, of which he notified the company. The subsequent internal investigation showed that over \$100,000 of stock had been stolen over a nine month period.

Statutory Liability

Health and Safety

A wooden furniture manufacturer was fined after an employee's fingers were severed whilst operating machinery.

The fine was delivered after the Department of Labour investigation highlighted the failure of the Insured to ensure that there were guardrails on the items of machinery that were being used by the employees. Reparation of \$55,000 was awarded and legal costs were a further \$25,000.

Statutory Liability

Excessive Noise

The local bridge club was located next to a recording studio. The bridge club alleged breaches of the Resource Management Act by the recording studio due to excessive noise. The recording studio defended the claim brought against it by the regional council of which it was found not guilty however legal costs incurred in defending this matter amounted to \$16,000.

Employers Liability

Gradual Process Injury

John had worked for Bob Smith Carpenters Limited for the last five years, frequently outside in the harsh New Zealand sun. One day he came home sunburned and his wife noticing that the mole on his neck was getting very dark, suggested he see a doctor about it. John went to a dermatologist the next week who advised him that surgery was required to remove the mole and tests needed to see if it was cancerous.

As it transpired the mole was a malignant melanoma and further surgery showed that cancer had spread a little way through his body. The doctor was confident that John would be okay after a course of chemotherapy, but he faced large medical bills as ACC wouldn't pay for it because it was an "injury" from a gradual process rather than an accident.

AIG settled on behalf of Bob Smith Carpenters Limited and recovered most of his legal costs and enough money to pay for his cancer treatment.

Crisis Event

Product Recall

Foodies Limited manufactures organic peanut butter. During a routine production run a worker inadvertently broke one of the glass jars near the final mixing vat for the peanut butter. The workers undertook the correct clean up procedures as required by the company's procedures.

Three days later a customer returned a jar of the peanut butter to their local supermarket saying thin shards of glass were present. The supermarket immediately called Foodies which initiated a recall of all products from the affected batch forming part of a huge shipment to a major customer. The CEO of Foodies formed a reasonable opinion that this could potentially result in a loss of over 30% of Foodies gross revenue and called upon AIG and its PrivateEdge policy.

With AIG's assistance, Foodies Limited hired a crisis management consultant for the next 30 days to try and counter the negative publicity to the company as a result of this event, requiring a nationwide advertising campaign and numerous calls to wholesalers and retailers.

Directors and Officers

Insolvency

Famille Limited went into liquidation owing significant sums of money to creditors. The matter progressed in the High Court whereby it was held that the directors were "trading recklessly" and found them personally liable under the Companies Act 1993. The court awarded \$640,000 to the liquidators, including interest.

Public Relations Expenses

Director's Reputation

Mr Stanley was a director of Stanley Trading Company Limited. After an accusation of price fixing, the company was the subject of much media speculation about their conduct prior to the accusation. A claim was made against the company alleging wrongful acts surrounding the supposed price fixing, which focused the media attention on Mr Stanley and the part he played.

Fortunately Stanley Trading Company had a Private Edge policy in place at the time of the collapse which covered the defence costs for the company and also paid for a publicity campaign to mitigate the damage caused to Mr Stanley's reputation.

Accidental Death

Poisoned Foot

Sarah was the founder and CEO of a small publishing business. Finally after three years without a break, the company was starting to make money and Sarah decided she needed a well deserved holiday to the Pacific Islands.

After dinner one night she and her husband were taking a walk along the beach when she stepped on a piece of coral and cut her foot. As it was a minor cut, she washed her foot in the sea and kept walking. The next day Sarah started to feel unwell, with flu-like symptoms. By the afternoon the leg on her cut foot had swelled up and was pulsing with red spider web type marks under the skin. Rushed off to the local hospital she was diagnosed with severe blood poisoning, but before the doctors could help Sarah, she suffered a heart attack and died. Needless to say, her family and colleagues at the publishing house were devastated.

Fortunately Sarah had taken out a PrivateEdge policy for the business, which received the Accidental Death Benefit of \$100,000, which they then passed on to Sarah's family.

Public Liability

Equipment Failure

The Insured was commissioning a refrigeration plant in a cool store but failed to install the correct compressor unit. The cool store employees put the unit to use before a long weekend. The incorrect compressor resulted in a compressor overload and failure of the refrigeration unit. When the employees returned to work after the long weekend they noticed that the meat product had thawed and was not fit for consumption. The cost of the meat lost was \$82,000.

Products Liability

Lack of Quality Control

The Insured supplied glass bottles to a well known New Zealand wine company. The wine company noticed a high level of breakages whilst the filled bottles were laid in the fermentation process. After careful investigation it was evident that there was a flaw in the Insured's manufacturing process - specifically in the quality control process for pressure testing the bottles. The cost of replacing the bottles was not covered under the policy but the resultant damage to the wine and the boxes was. The settlement to the wine company was \$185,000. The covered expenses were \$4,000.

Most of these scenarios are based on true facts, however they have been modified to protect the privacy of those involved.



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