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LOSS ADVISORS

Twelve Tips to Secure Insurance Coverage for the **KATRINA DISASTER**

Given the continued suffering of so many arising out of the devastation wrought by Hurricane Katrina, it may be difficult to focus on mundane matters like commercial insurance. Unfortunately, many policyholders in the Gulf Coast, along the Mississippi River and nationwide suffered massive dislocation of their operations and enormous income losses, and need their insurance to respond. Below are tips which policyholders should consider as they cope with the aftermath of the Katrina disaster.

1 — FIND YOUR INSURANCE POLICIES.

The loss of life and the destruction of offices, records and files may make this task more difficult. If you know the names of at least some of your insurance companies, you should send a written request for your policies. If your insurance broker's files are available, contact that office for policy copies.

You need to locate all applicable primary, excess, local and global property insurance policies, as well as inland marine, multi-peril, fire and business owners policies that may apply to claims for property damage or business interruption.

2 — LOOK TO FIRST-PARTY INSURANCE.

Most businesses affected by the storm will look to first-party insurance policies, or policies that promise to protect policyholders from losses they suffer to their own property or expectations of profit. These policies are generally referred to as "property" insurance policies, but they come under other names, like "inland marine," "fire" or "multiperil" insurance policies. Review all of your insurance policies for potential coverage.

3 — REMEMBER PROPERTY DAMAGE, BUSINESS INCOME AND EXTRA EXPENSE COVERAGE.

Property insurance policies contain three basic types of coverage: property damage, business income and extra expense.

- (a) **Property damage coverage** pays for physical loss or damage to buildings and business property – machinery, equipment, inventory, raw materials – as well as property of others in the policyholder's control.
- (b) **Business income coverage** pays for the policyholder's loss of net revenue after expenses (profit), and the policyholder's unavoidable continuing expenses during the loss period.
- (c) **Extra expense coverage** pays for the policyholder's costs in minimizing or avoiding a business income loss.

4 — COVERAGE MAY BE AVAILABLE WITHOUT DIRECT PHYSICAL LOSS OR DAMAGE.

Businesses which have suffered business losses from the storm unrelated to direct physical damage to their property may still have coverage under property insurance policies. Check for:

- (a) contingent business income coverage
- (b) contingent extra expense coverage
- (c) civil authority clause
- (d) ingress/egress coverage; and
- (e) utility and communications service interruption coverage.

These and similar provisions may provide coverage for events that interfere with suppliers, or customers or prevent or hinder access to premises.

5 — GIVE NOTICE.

If you feel there is any possibility that you may have a claim, you should give notice *now*, preferably by instructing your insurance broker to give notice under all policies that could be implicated. Have the broker send you a copy of the notice letter.

Give notice even if you do not have all the particulars of your claim. You can always supplement the notice later.

6 — SECURE TOLLING AGREEMENTS WITH YOUR INSURANCE COMPANY.

Property and business interruption losses of this magnitude may well result in claims processes that take insurance companies and policyholders months if not years to resolve. Provisions limiting the time for you to provide "proof of loss" or to repair or replace damaged property often are extended by written agreement.

7 — INSURANCE POLICY RENEWALS.

This catastrophe might cause insurance programs to lapse and create unintended gaps in a policyholder's insurance coverage because of the loss of both broker and insurance company offices.

8 — EMERGENCY REPAIRS AND PRESERVATION OF PROPERTY.

At the outset, the majority of emergency efforts are being coordinated and performed by governmental agencies and officials. Policyholders should be mindful, however, that their insurance policies will typically state that certain measures to mitigate losses should be taken.

9 — RETAIN AN ENGINEER OR CONSULTANT IF THERE IS RISK TO THE STRUCTURAL INTEGRITY OF A PROPERTY OWNED OR MANAGED BY THE POLICYHOLDER.

10 — KEEP A DIARY. DOCUMENT ALL LOSS ITEMS AND EMERGENCY EXPENSES.

Insurance companies often question, reject and contest loss items submitted by policyholders for reimbursement. Keeping complete and accurate records of loss items is extremely helpful to ensure that policyholders are reimbursed for the amount of their insurance claims. If you can, also use video and photographs to document losses.

11 — CONSIDER HELP IN SUBMITTING YOUR CLAIM.

If your claim is big enough, you should consider hiring a public loss adjuster or an accounting firm that specializes in property insurance coverage accounting. The insurance company will almost certainly hire a supposedly "independent" adjuster, and one or more accounting firms or law firms that specialize in representing insurance companies.

12 — CONSIDER INSURANCE COVERAGE UNDER OTHER INSURANCE POLICIES.

The impact of this disaster will be far-reaching. Consider what notice (such as notice of an "occurrence" or notice of "circumstances") must be given under liability insurance policies, including general liability insurance and errors and omissions (E&O) insurance, in the event of claims by third parties. Also, determine if you, your business or entity is an "additional insured" under the insurance policies of others.

Also address any other insurance coverage issues under life insurance, workers compensation and any other form of insurance that may apply to claims surrounding the Katrina disaster.

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