

## Business Continuity – Insurance Considerations



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## BCP Insurance Agenda

- ✓ Kingsway & BCP Strategy
- ✓ Insurance Policy
- ✓ Insurance Considerations
  - Property
  - Co-insurance
  - Business Income
  - Extra Expense
- ✓ Insurance Claims
- ✓ Insurance Disputes
- ✓ Questions / References

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## Kingsway & BCP Strategy

- Kingsway Financial Services
  - North American insurer
  - Canadian operations
    - 5 locations / properties
    - 3 owned by Kingsway
    - Insured by Aviva with Brownstone as producer
  - U.S. operations
    - 7 locations / properties
    - 4 owned by Kingsway
    - Insured by Chubb with Avalon Risk Management as producer



- Chubb (Kingsway insurer)
  - Financial Institution division



- Business Continuity Strategy

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## Insurance Policy





## Insurance – Definition

- Insurance, in law and economics, is a form of risk management primarily used to hedge against the risk of a contingent loss.
- Insurance is defined as the equitable transfer of the risk of a potential loss, from one entity to another, in exchange for a premium. (source – Wikipedia)

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## Insurance – Players



- Insurer – insurance company that provides the policy
- Insured – company paying premium for policy
- Producer – broker or agent that works with the insured to define coverage and then secures coverage with the insurer.

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## State of Insurance Economy

- Soft Market – today
  - Insurer willing to do more
  - Cheaper / competitive
  - Less stricter underwriting criteria and less selective
- Hard Market
  - Insurer can set price
  - Very strict and selective on which business to accept
- Insured
  - Select a reputable producer – broker / agent
  - They'll assist to select insurer – insurance company that specializes in your industry
  - Find insurer with a good price and quality service – then stick with them.



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## Insurance Policy

- Do you have a homeowner's policy?
- What are the coverages for your policy?
  - Property
  - Liability
  - Flood
- Have you read your homeowner's policy?
- What are the coverages for your business?
  - Property
  - Liability
  - Business Income / Extra Expense
- Have you read your company's policy?
- BCP team's role in insurance?



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## Insurance – Definitions

- Declarations
- Endorsements
- Occurrence
- Insured locations
- Property damage



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## Insurance Policy

- What is the contents of a policy (Kingsway example)
  - Issuing Agreement
  - Premium Summary
  - Property Insurance Section
    - Property Schedule of Forms & Declarations
    - Property Contracts
    - Property Endorsements
  - Liability Insurance Section
    - Liability Schedule of Forms & Declarations
    - Liability Contracts
    - Liability Endorsements Common Policy Section
  - Common Policy Section
    - Common Policy Conditions
    - Common Policy Endorsements



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## Presentation Exclusions

- Insurance Policy Coverage areas not addressed in this presentation
  - Crime
    - Employee theft
    - Employee fraud
  - General liability
    - Umbrella
    - Employer practices
    - Employer benefits
    - Environmental Liability
    - Professional Liability
    - Directors & Officers' Liability
  - Automobile
  - Workers' Compensation
    - Health crisis
    - Subcontractors
    - Company events



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## Insurance Policy Check-up

- Forms
  - ISO / ARM / Insurer
- Coverage
  - What are limits?
  - What is covered?
- Premiums
  - Could be reductions in rates due to special programs (e.g. safety committee, etc.)
- Exclusions
  - What can possibly be excluded under policy?
- Insurance carrier
  - Reputation
  - Stable
- Finally, where do you store the policy?



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## Insurance Policy Check-up

- *Best's Credit Ratings*
- A.M. Best Company – credit rating agency
- **Best's Credit Ratings** are independent opinions regarding the creditworthiness of an issuer or debt obligation.
- A.M. Best assigns the following types of ratings:
  - Best's Financial Strength Rating
  - Best's Issuer Credit Rating
  - Best's Debt Rating
  - Best's Bank Deposit Rating



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## Insurance Considerations



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## BCP Insurance Considerations

- Property Coverage
  - Premises / Building
  - Business personal property
  - Stock / inventory
  - Accounts receivable / Valuable papers / fine arts
  - EDP / Technology equipment
  - Data
  - Production equipment
  - Debris removal



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## BCP Insurance Considerations

- Property Coverage considerations
  - Value
  - Replacement Cost Value (RCV) versus
    - Actual Cash Value (ACV) / Fair Market Value (FMV)
  - Blanket Limit versus
    - Specified Limit
  - Deductibles
  - Coinsurance versus
    - Agreed Amount
  - Contingent Business Income Coverage



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## BCP Insurance Considerations

- Coinsurance definition
  - Eliminates the need for the insurer to secure a valuation of the property and contents (assets); Applies to property damage and business income loss coverage
- Coinsurance purpose
  - Is to ensure that, as a property owner, you have sufficient coverage.
    - To shift responsibility for property valuations to insured



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## BCP Insurance Considerations

- Coinsurance issues
  - Requires insured to maintain property coverage of at least 80-90% of “value”
  - Issue is whether value is RCV or FMV
  - Insurance company uses complicated formula to reduce insurance coverage below the insured expected value.
  - Place an agreed amount endorsement on your policy
  - Older buildings – opportunity for problems



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## BCP Insurance Considerations

- Coinsurance example requires RCV
  - Property
    - \$1 million FMV
    - \$2 million RCV
    - \$700K mortgage
    - \$922K in property coverage
  - No coinsurance penalty
    - \$922K - \$1 million = 92.2%
    - Receive \$850K
  - Coinsurance penalty
    - \$922K - \$2 million = 46%
    - Receive \$425K



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## BCP Insurance Considerations

- Contingent Business Interruption Insurance
  - Covers business income losses due to 3<sup>rd</sup> party property losses; that the insured depends on for services or materials
- Windstorm property deductible
- Debris removal



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## BCP Insurance Considerations

- Mold coverage
- Compliance, Code, or Ordinance coverage
- Loss Settlement Fees



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## BCP Insurance Considerations

- Business Income Insurance
  - Provides coverage on the basis of actual (gross profit) loss sustained by the insured during the period of business interruption.
  - Option to add payroll coverage
  - Period of interruption



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## BCP Insurance Considerations

- Business Income Insurance (continued)
  - Concerns
    - Communications
    - Market conditions change
    - Definition is sales that would have occurred, not sales that could have occurred.
    - Does not cover loss of loyal customers / clients
    - Cannot insure against loss of customers, confidence, reputation, and future business.
  
  - Can mean the survival of the company
  
  - Examples
    - Kingsway Business Income Works
    - Hotel



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## BCP Insurance Considerations

- Extra Expense
  - Temporary facility
  - Additional living expenses
  - Additional transportation expenses
  - Utilities
  - Equipment
  - Extra services
  - Permits
  - Does not cover personnel salary.
  
- Example
  - Kingsway Extra Expense Worksheet 072309.xls



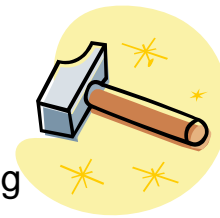
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## Insurance Hammer Clause

- Beware of hammer clause provisions in insurance policies that may reduce the limit of coverage (liability) for a particular claim if the policyholder and the insurance company disagree on the settlement of the claim.
- Example
- No Hammer Clause – a good thing



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## Insurance Claims



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## BCP Insurance Claim Procedures

- Know your obligations under the policy
- Claim or not to Claim
- Put carrier on notice as soon as possible
- Any requirements on notification timing?
- Document all contact discussion – date, time, person, topic, actions
- Confirm information and documentation needed for claim
- Get company to acknowledge the claim
- Track Extra Expense



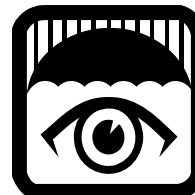
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## BCP Insurance Claim Procedures

- Business Continuity Plans - checklist
- What do you need to prove claim (proof of loss)?
- Preserve the evidence
- Maintain own claim file
- Stay organized
- Insurance company accepts or denies claim
- Make the insurance company's adjuster's job easy!



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## BCP Insurance Disputes

- What happens if the insurance company does not meet your expectations?
- Don't delay – get legal advice.
- Dispute Value
- Dispute Coverage
- Subrogation
- Some lessons to businesses are these:
  - If your carrier suggests or insists that you use a claims services organization, make sure it is financially independent of the carrier.
  - If you delegate ultimate claims handling decisions to those with financial interests outside your organization, you may be doing so at your peril.



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## BCP Insurance Disputes

- Bad faith claims – must demonstrate insurance company has gone out of way to benefit themselves – not very successful for insured
  - Bad faith is “any frivolous or unfounded refusal to pay proceeds of a policy, it is not necessary that such refusal be fraudulent.”
  - Pennsylvania statute – 42 Pa.C.S.A § 8371

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## BCP Insurance Questions

- Questions



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