

Management Liability Claims Examples

Hospitality Industry



Directors and Officers

Restaurant

- ⌚ 23 staff
- ⌚ \$11M turnover

Background

A marketing firm was sued for misleading and deceptive conduct by one of the Insured's competing restaurants for advertising that the Insured restaurant employed a celebrity chef. This particular chef was in fact employed by the rival restaurant. The marketing firm then joined the Director of the Insured hotel to the proceedings alleging that they provided a verbal and written statement that this celebrity chef was employed in their restaurant.

Outcome

It was determined that the Policy was triggered and indemnity was extended to the Insured. The claim was ultimately settled out of court for the amount of \$230,000 with the Insured agreeing to contribute \$160,000 to the settlement of the claim.

Payment: \$160,000 plus \$65,000 in defence costs.

Hotel

- ⌚ 27 staff
- ⌚ \$16.6M turnover

Background

The Managing Director of a medium sized hotel left and started up business in a larger hotel. He was subsequently sued by the Directors of his former company. The Directors of his former company alleged breaches of intellectual property rights and plagiarism in relation to the way in which the Managing Director was marketing his new business. The former company issued proceedings in the Federal Court seeking damages in excess of \$2,000,000.

Outcome

As the claim was made against the Insured Person, it was determined that the Policy was triggered and indemnity was extended to the Insured. The claim was settled at mediation with defendant Director agreeing to contribute to settlement.

Payment: \$360,000 plus \$250,000 in defence costs.

Crime

Licensed Club

- ⌚ 30 staff
- ⌚ \$7M turnover

Background

A claim was made for the loss of \$220,000 worth of alcohol and stock from the Insured licensed club. Surveillance cameras detected a group of four employees and their friends stealing alcohol and stock totaling over \$250,000. The alcohol and stock were sold to unsuspecting purchasers who were not aware that the goods were stolen. The employees were charged and prosecuted by the police and were only able to repay the amount of \$30,000.

Outcome

It was determined that the Policy was triggered and indemnity was extended to the Insured. They could only pay the \$30K

Payment: \$220,000 plus defence costs.

Hotel

- ⌚ 18 staff
- ⌚ \$9.1M turnover

Background

Over a period of 3 years, an employee accountant of the Insured hotel with access to the payroll and the trust account, misappropriated over \$100,000 from the Insured's trust account. The theft was detected and reported to the police. The police were only able to prove that the employee misappropriated \$15,000.

Outcome

It was determined that the Policy was triggered and indemnity was extended to the Insured. The Insured engaged the assistance of a forensic accountant who was able to prove direct financial loss of \$105,000. The Insured made a crime claim on their policy and they were able to prove a direct financial loss.

Payment: \$105,000.

Licensed Club including Pokies

- ⌚ 22 staff
- ⌚ \$12M turnover

Background

Over a period of 12 month, a trusted employee of the Insured Pokie Venue was found to have stolen approximately \$127,000 from the pokie machines whilst transferring funds from the machines to the safe.

Outcome

It was determined that the Policy was triggered and indemnity was extended to the Insured. The Insured engaged the assistance of a forensic accountant who was able to prove direct financial loss of \$127,000. The Insured made a crime claim on their policy and they were able to prove a direct financial loss.

Payment: \$127,000.

Occupational Health and Safety

Hotel

- ⌚ 55 staff
- ⌚ \$36M turnover

Background

An apprentice chef from the insured hotel restaurant was busy preparing for the dinner service. Unfortunately, he suffered severe injury when he sliced his hand on the slicer. A formal Occupational Health and Safety investigation began which eventually led to the company being prosecuted. The prosecution alleged that the company failed to provide adequate training and supervision to the apprentice.

Outcome

It was determined that the Insuring clause of the Policy was triggered and indemnity was extended to the Insured. The company vigorously denied all allegations. Despite their attempt at defending the claim, the company was fined.

Payment: \$25,000 fine plus \$20,000 in defence costs.

Statutory Liability

Licensed Club

- ⌚ 12 staff
- ⌚ \$23M turnover

Background

An Insured licensed club was fined \$11,200 from the EPA for dumping garbage in what was deemed to be an illegal dumping site in the vacant lot next door. The hotel had been using this site for the last 12 years and was under the impression that they were allowed to dump garbage there as many of the other businesses in the area were doing the same.

Outcome

The Policy was triggered and indemnity was extended to the Insured. The Insured was made to pay the fine of \$11,200 and it was deemed to fall within the cover provided under the Statutory Liability Section and therefore covered by the Policy.

Payment: \$1,200.

Employment Practices Liability

Licensed Club

- ⌚ 33 staff
- ⌚ \$45M turnover

Background

A claim was made by four former hotel staff against certain directors, managers and supervisors of the Insured Licensed Club for bullying, harassment, abuse and sexual harassment. Claims were made against the entity alleging that it failed to respond to those allegations. Employees claim combined compensation of \$200,000.

Outcome

It was deemed that the insuring clause was triggered. After protracted litigation, the matter settled for payment by the company of \$20,000 per claimant.

Payment: \$80,000 and \$150,000 in defence costs.

Tax Audit

Licensed Club including Pokies

- ⌚ 71 staff
- ⌚ \$49M turnover

Background

An Insured Licensed Club (Pokie Venue) and restaurant who employed over 250 people received a notification from the ATO advising that it intended to audit the insured's income tax and superannuation payment tax records for the period ending 30 June 2017 to 30 June 2018. This was a particular concern as the Insured employed many casual workers and may not have had complete and accurate information. The Insured was unable to collate the required information due to lack of time and expertise on the subject. DUAL assisted by appointing a specialist tax accountant to complete the audit. The whole process was completed in less than four weeks and totalled \$23,050 in fees.

Outcome

It was deemed that the insuring clause triggered. The costs incurred were deemed to be necessary and reasonable and the insured was reimbursed

Payment: \$23,050 less deductible.

Crisis Containment

Restaurant

- ⌚ 19 staff
- ⌚ \$33M turnover

Background

An Insured restaurant was the target of a food poisoning incident which occurred when a disgruntled employee put dishwashing liquid in the food served at dinner service. Many patrons fell ill and the story hit the papers delivering bad press to the restaurant.

Outcome

The company incurred \$37,000 in retaining the services of an external crisis management company to oversee the recall and to ensure that any damage to the company's reputation was minimal. In the circumstances the Insuring clause was triggered and indemnity was extended to the Insured. DUAL deemed that the crisis containment extension of the policy was enlivened and reimbursed the company.

Payment: \$37,000.