

Management Liability Claims Examples

Trade Services



Directors and Officers

Electrical Contractor

- ⌚ 9 staff
- ⌚ \$10M turnover

Background

A Managing Director of a medium sized electrical contracting company left to become the CEO of a competing company (the Insured). After 3 months, his previous employer sued him for allegedly stealing trade secrets, confidential business information and employees.

Outcome

Proceedings were initiated against the Managing Director in the Federal Court for damages. The Insured incurred over \$200,000 in legal costs to defend the claim. The parties ultimately settled the dispute for \$210,000 with the former Managing Director agreeing to not disclose any confidential information and to not hire former employees.

Payment: \$410,000.

Landscaper

- ⌚ 20 staff
- ⌚ \$15M turnover

Background

A large gardening business sued the owners of a small family owned gardening and horticultural company for \$445,000 after its retail manager left to join the insured business. The competing company alleged theft of trade secrets and claimed that the retail manager was still in their employment when they began sharing proprietary information with the Insured.

Outcome

It was determined that the Policy was triggered and indemnity was extended to the Insured. The claim proceeded to hearing and was settled at mediation

Payment: \$114,000.

Crime

Electrical Contractor

- ⌚ 9 staff
- ⌚ \$10M turnover

Background

The site manager of an insured electrical contracting company and an employee together manipulated inventory supply numbers of stock to defraud the company. The stock was stolen and on-sold by the manager and employee over a two year period.

Outcome

The Insured appointed a Crime Investigator after discovering anomalies in their accounts. The Crime Investigator uncovered the scheme and the Policy responded to the crime loss and the investigators fees.

Payment: \$1,600,000.

Electrical Contractor

- ⌚ 13 staff
- ⌚ \$11M turnover

Background

A debtor clerk of a large electrical contracting company misappropriated \$200,000 by altering cheques received from debtors. The clerk named themselves as a payee and continued a cycle of paying debtors accounts with funds from other debtors over a period of 18 months. This continued until her absence from work when the fraudulent scheme was discovered.

Outcome

A forensic accountant was appointed to uncover the extent of the misappropriation, and the Policy responded to the crime loss and the forensic accountants costs.

Payment: \$250,000.

Project Management Company

- ⌚ 8 staff
- ⌚ \$6.2M turnover

Background

Over a period of 9 months, an employee of the insured project management company misappropriated \$80,000 of their employer's money by pocketing cash received from Clients in payment of their invoices billed (via EFT transfers). The employee had a gambling problem and admitted to stealing the funds. The employee was prosecuted by the police and was unable to pay the stolen funds back to their employer as the funds were gambled away.

Outcome

With the assistance of a crime investigator, the insured was able to prove the loss of \$80,000 and was then able to claim this from back from the insurer.

Payment: \$80,000.

Occupational Health and Safety

Electrician

- ⌚ 5 staff
- ⌚ \$8M turnover

Background

An employee electrician contracted by the insured electrical contracting company was inspecting wiring on a building site. During the inspection, the contractor suffered severe electric shock whilst inspecting the wiring. It was later discovered that certain precautions were not followed on site. The employee was left with severe burns to his right arm and face. The insured company was subject to a formal Occupational Health and Safety investigation and prosecution.

Outcome

It was determined that the Insuring clause of the Policy was triggered and indemnity was extended to the Insured. The company vigorously denied and successfully defended the most severe allegations. Despite their attempt at defending the claim, the company was fined for the negligent actions of their employees.

Payment: \$450,000 fine plus \$100,000 in defence costs.

Plumber

- ⌚ 9 staff
- ⌚ \$11M turnover

Background

A team of 3 plumbers were contracted to attend an industrial building site in Western Australia to undertake certain tasks in the overall building project. The team consisted of new recruits who were new to the job. Unfortunately, on the first day of the project, two of the novice electricians were seriously injured. One contractor suffered a deep laceration on his hand whilst the other contractor lost partial hearing in his left ear due to failing to wear the safety equipment correctly. A

formal Occupational Health and Safety investigation began which eventually led to the company being prosecuted.

Outcome

It was determined that the Insuring clause of the Policy was triggered and indemnity was extended to the Insured. Following a two day hearing, the company was found liable and was fined.

Payment: \$120,000 fine plus \$130,000 in defence costs.

Electrical Company

- ⌚ 12 staff
- ⌚ \$15M turnover

Background

A electrical engineer who was inspecting and installing wiring on an industrial building site. The employee was severely injured when a pile of debris fell on him. He was airlifted to hospital but unfortunately died two days later. A formal Occupational Health and Safety investigation began which eventually led to the company being prosecuted. During the investigation, it was deemed that the company had failed in its duty of care to provide a safe work place for its employees.

Outcome

It was determined that the Insuring clause of the Policy was triggered and indemnity was extended to the Insured. Following a one day hearing, the company was found liable and was fined.

Payment: \$120,000 fine plus \$130,000 in defence costs.

Landscaper

- ⌚ 7 staff
- ⌚ \$12M turnover

Background

An apprentice landscaper severely injured his back when he attempted to shift a large bag of soil. He was hospitalised and remained in traction for three months. The insured company was subject to a formal Occupational Health and Safety investigation and prosecution.

Outcome

With the assistance of panel solicitors the insured denied and defended the claim, however were issued a minor penalty which was indemnified by the Policy.

Payment: \$10,000 fine plus \$15,000 in defence costs.

Employment Practices Liability

Carpenter

- ⌚ 15 staff
- ⌚ \$12M turnover

Background

A female carpenter was contracted to a building company to provide a service. Part of her duties involved being on site with a team of other workers, most of whom were male. A complaint was made to the Australian Human Rights Commission where she alleged that her supervisor sexually harassed her over the duration of her employment by touching her inappropriately and making inappropriate comments. She refused to return to work after reporting the incident to the building company on the grounds that she is suffering major depression as a result of the alleged sexual harassment. She made a workers' compensation claim due to her

alleged inability to return to work. She also lodged a complaint against both the company and her supervisor with the Australian Human Rights Commission seeking approximately \$160,000 in compensation plus future damages.

Outcome

It was deemed that the insuring clause was triggered. The matter proceeded to a conciliation at the Australian Human Rights Commission. The Claimant and the Insured agreed at conciliation to resolve the complaint by updating the anti-discrimination policy in the workplace, and providing a settlement.

Payment: \$205,000.

Landscaper

- ⌚ 10 staff
- ⌚ \$15M turnover

Background

A claim was made by four former employees against the owners of a landscaping design business 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

After protracted litigation, the matter settled for payment by the company of \$20,000 per claimant.

Payment: \$230,000 including defence costs.

Tax Audit

Plumber

- 12 staff
- \$15M turnover

Background

An insured plumbing company received a notice from the ATO advising that they intended to review their income tax, capital gains tax and superannuation payments tax records for the periods ending 31 March 2016, 31 March 2017, 31 March 2018 and 30 June 2018. The insured then retained specialist tax accountants to prepare an audit report. The entire process took over nine months to complete. The ATO deemed that all was in order and

did not impose any penalties. The insured, however, incurred Tax Audit Costs totalling \$88,500.

Outcome

Upon the assessing this claim, it was deemed that the Policy was triggered. The Tax Audit Costs incurred were deemed to be necessary and reasonable and the insured was reimbursed.

Payment: \$87,500.

Crisis Containment

Electrical Contractor

- 8 staff
- \$10M turnover

Background

An insured electrical contracting company was thrown into crisis mode with the unexpected death of its Senior Manager. This Manager was responsible for approximately 50% of the company's business with many longstanding clients who did not wish for any other employee to handle their business.

Outcome

The company incurred \$28,500 in retaining the services of an external crisis management company to develop a crisis management plan, including providing specialist communications to clients to ensure that their business would be looked after and overseen the other two equally competent managers. In the circumstances, DUAL deemed that the crisis containment extension of the policy was enlivened and reimbursed the company.

Payment: \$28,500.

Pecuniary Penalties

Electrical Contractor

- 5 staff
- \$12M turnover

Background

The director and company were charged with four offences under the Environment Protection Act. These are indictable offences and each charge carries a potential maximum fine of \$280,000. The EPA alleged that the electrician (employed by the company) dumped hazardous waste into a nearby vacant lot which

was not determined to be a legal dumping site.

Outcome

It was deemed that the Policy was triggered. Following a three day hearing, the director and company were found liable and were fined.

Payment: \$180,000 .