
PLUS Mid-Atlantic Chapter
CE Presentation- September 18, 2019
Speakers:
Jim Kantner
Underwriter, Professional Liability
Admiral Insurance

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Group Claims, Cyber & Executive Risk
Beazley Group

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Chubb

Moderator
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Partner
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Overview of Cyber/Crime Exposure
• **Direct vs. Indirect Loss**
  – The primary purpose of cyber insurance is to protect companies whose customers’ personal information has been compromised. You may be responsible or liable for damages incurred by those connected to you such as customer or patients – an indirect loss. A crime policy, however, covers losses such as theft of your money or securities – a direct loss.

• **Tangible vs Intangible Loss**
  – Cyber insurance covers the loss of intangible property such as data files, proprietary formulas, sensitive financial information, and personal data of customers or employees – an intangible loss. Crime coverage comes into play when there’s a physical loss of securities, money, or merchandise – a tangible loss.

• **1st Party or 3rd Party Loss**
  – Cyber policies provide both 1st and 3rd party coverage. A crime policy generally covers losses you incur – 1st party coverage only. Cyber and Crime polices may also have overlapping coverage in the following areas:
    • Computer Fraud Coverage
    • Funds Transfer Fraud Coverage
Invoice Manipulation Coverage

• **What is Invoice Manipulation?**
  – An employee’s e-mail is hacked, or their credentials are obtained through a breach of their personal accounts utilizing the same password. The release or distribution of any fraudulent invoice or fraudulent payment instructions to a third party
  – The hacker watches e-mail traffic and figures out who is expecting a new invoice
  – The hacker sends an invoice from your employee’s e-mail account, with fraudulent wire instructions
  – Your customer is socially engineered into sending funds to the hacker, thinking they are sending them to you
  – Does my Social Engineering or Cyber policy cover this loss? Probably not…
Social Engineering Coverage

• **What is Social Engineering?**
  – Intentional misleading of an Employee through misrepresentation of material facts leading to the loss of money or securities
  – Threats often come from external sources or former employees in the form of a phishing or spear fishing email
  – Coverage available on both Crime and Cyber policies

• **How do you prevent Social Engineering attacks?**
  – Regular employee training
  – Third party enterprise wide phishing training
  – Dual signoff or elevated review of all monetary transfers over $10,000
Cyber and Crime Policy
Coverages and Exclusions
Typical Coverage Trigger:

*Failure to prevent unauthorized access to the insured’s computer system or failure to protect personally identifiable information or corporate confidential information, which results in:*

- Breach Response Expenses
  - Forensics, notification, credit monitoring, legal, PR, etc.
- Network Extortion
- Business Interruption
  - Income loss and extra expenses
- Digital Data Loss
Typical Coverage Trigger:

Loss of or damage to money, securities and other property resulting from:

- Employee theft
- Forgery/Alteration of insured’s checks/promissory notes
- Theft of money & securities; Robbery/burglary of other property
  - Outside the Premises
  - Inside the Premises
- Computer Fraud
- Funds Transfer Fraud
- Money Orders and Counterfeit Money
- Social Engineering
Typical Exclusions

Cyber Policies

• Theft of tangible assets indirectly excluded by definition
  – Example: *We will pay on behalf of the Insured those Privacy Breach Expenses...directly resulting from a Privacy Breach Event*

Crime Policies

• The unauthorized use or disclosure of confidential information of another person or entity which is held by you
• Indirect Loss – subsequent Income loss as result of covered act
• Social Engineering – exclusions relative to risk management procedures
Gaps in Coverage
Possible Gaps in Coverage

Fraudulent Instruction – third party loss

- Mortgage broker claims/Third Party Loss
- Not a “Core” fidelity coverage. Usually requires an endorsement.
  - However, some courts have treated it as covered under the Computer Fraud Insuring Agreement

- Solution – Social engineering loss with Client Property endorsed cover on a fidelity/commercial crime cover.

Ransomware - Hardware
Proximate Cause Camp
Coverage found under Computer Fraud

- **Principal Solutions (N.D. Ga. 2016)**
- **Medidata Solutions (2d Cir. 2018)**
- **American Tooling (6th Cir. 2018)**
Holding:

• The loss was “direct” under either a “direct” means immediate OR immediate or proximate definitions.

• “The use of any computer” does not require a hacking.

• The fraudulent emails “directly caused” the loss because they “induced” American Tooling’s subsequent actions that led to the payments.
Direct Causation Required

- *Apache Corp.* (5<sup>th</sup> Cir. 2016)
- *Taylor & Lieberman* (9<sup>th</sup> Cir. 2017)
- *Aqua Star* (9<sup>th</sup> Cir. 2018)
- *Incomm* (11<sup>th</sup> Cir. 2018)
Practical Examples
Questions?

Wednesday, September 18, 2019 | 6:30 - 10:00 p.m.

What are the differences between crime insurance and cyber insurance? Our panel of experts will provide an overview of the differences between policies and discuss the exposures that each type of policy is intended to insure. The program will also include a summary of the gaps in coverages that can exist for each type of policy, citing real world examples. Following the program a Networking Reception with cocktails and heavy hors d’oeuvres will be served aboard the ship.

Elite Private Yacht Cruise

580 Water Street SW
Boarding From: Pier 4, Water Street SW
Washington, DC 20024

6:30 p.m. Check-in Dockside
6:45 p.m. Ship Boarding Time
7:00-8:00 p.m. Educational session
8:00-10:00 p.m. Networking Reception
10:00 p.m. Disembark from Ship

Thank You

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Annual

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