

## **DIRECTORS & OFFICERS LIABILITY**

### Claims Examples

#### **NON-PROFIT D&O CLAIMS EXAMPLES**

##### **\$2,000,000**

A Country Club is sued by a group of its members on the grounds that the directors and officers failed to exercise an option to extend the rent-free lease of the land used as their golf course. As a result of this omission, the lessor required the club to either purchase the land for more than \$10,000,000 or to lease the land for a substantial price. Defense costs and damages reached \$2,000,000.

##### **\$3,000**

A not for profit corporation is sued for giving advice regarding the purchase of furnaces on the basis that the customer will receive savings through government initiated environmental rebates. During the installation, the government changed their policies and also the potential value of the rebates. The claimants sued for the amount of savings they were promised by the insured. This claim is made under the incidental E&O cover granted under the non-profit D&O form. The matter was settled for \$3,000.

##### **\$200,000**

A holiday parade in a major metropolitan city is sued by a spectator after one of the volunteer performers tossed a free gift into the crowd, injuring the plaintiff. Although the direct damages resulting from the bodily injury may seek indemnity under a CGL policy form, the plaintiff is suing for financial damages of \$200,000 from the directors and officers alleging inadequate safety protocol and training procedures. Defense costs are accumulating and expected to be significant.

##### **\$3,000,000**

The parents of a group of disabled adults sued an organization providing housing for their children, alleging a breach of fiduciary duty. As a result of the investigation, it was determined that the disabled were receiving substandard care due to a lack of funding. The D&O's were found to be embezzling from the organization, in addition to mismanaging funds. After the jury trial and appeal, the plaintiff's parents won a judgment in excess of \$3,000,000. Defense costs were significant.



32 Queen Street West, Brampton, ON, L6X 1A1

t. 905.459.6066

toll free: 1.877.422.8467

f. 905.459.6128

24 hour claims: 1.877.422.8123

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### **\$75,000**

The executive director of a day care center was terminated due to unauthorized spending of the organization's funds. The day care center was sued for wrongful termination resulting in a settlement in favor of the former executive director. The suit settled for \$75,000.

### **\$2,400,000**

A not-for-profit organization was given funds in the amount of \$2,400,000 from a third party organization. The directors of the not-for-profit organization used said funds to purchase capital assets. The third party alleges that purchasing capital assets did not comply with the fund policy agreement between the two organizations and sued the Directors and Officers of the not-for-profit organization for an amount of \$2,400,000. This claim is still ongoing and no settlement has been reached. Defense costs continue to incur.

### **\$200,000**

The board of directors of a condo corporation hire a contractor to perform significant work on the buildings' common areas. The board pays the contractor the full cost of the job prior to any work being completed. Soon after, the contractor files bankruptcy without completing any of the work. Upon investigation, it is determined that a member of the board has a personal relationship with the principal of the contracting company. The condo owners subsequently sue the board for mismanagement of funds to the amount of the contract, \$200,000. Claims negotiations are ongoing.

### **\$159,000**

A philanthropy organization is accused of distancing itself from its legal obligation as an organization specifically devoted to raising money for Charity XYZ. The insured's position is that they can raise money for any organization they wish. Although the insured won the case in court, defense costs were \$159,000.



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## PRIVATE D&O CLAIMS EXAMPLES

### **\$500,000**

A shareholder alleges that certain directors helped to renegotiate a service contract and booked all the revenue during one quarter instead of over the three year life of the contract. Further, this service contract received steep discounts and caused other customers to request similar discounts, resulting in lost revenue for the company. Defense and settlement of case exceeded \$500,000.

### **\$800,000**

A private company agrees to perform market research for a start-up company in the materials management industry. In exchange for their services, the start-up allegedly agrees to pay the private company \$20,000 plus 5% of privately placed issued shares in the company. The start-up denies that they explicitly or implicitly agreed to pay the private company in stock. The plaintiff alleged several causes of action, including breach of fiduciary duty. Defense and settlement exceeds \$800,000.

### **\$180,000**

A CEO alleges his employment was terminated without cause and that the company hindered his attempts to find new employment by telling third parties that he is prohibited from using trade secrets and intellectual property that allegedly belongs to the company. Breach of contract, and unfair and deceptive trade practices have been found against the company and a director. Defense costs and settlement for the defendant exceeded \$180,000.

### **\$75,000**

A retail store hired a local copier to print promotional material announcing a large annual sales event. The delivery time was clearly stated in the contract, yet the copier was one day late with their delivery. As a result, the retail store missed their deadline to submit the flyers to a local newspaper and other various methods of circulation. The store owner sued the copier for misrepresentation, breach of contract, and loss revenue. The case was settled for \$75,000.



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### **\$38,000**

A prior CEO is deemed personally negligent in her duty to remit dues collected from salaried employees to Revenue Canada. When the organization is forced into closure due to bank debt, Revenue Canada filed a claim for the unpaid dues totaling \$38,000.

### **\$30,000,000**

A private school for children is sued on allegations of negligence and breach of fiduciary, statutory, and common law duties. Details include physical and sexual abuse, inadequate funding, and deprivation of educational opportunities. Due to the damage sustained to their reputation, the school was forced to close. Punitive and exemplary damages, in addition to defense costs, have the potential to exceed \$20,000,000.