

IN THE

KNOW

Greetings and welcome to the third issue of In The Know! We continue our efforts to bring you valuable information about federal compliance, business practices and risk management. In this issue we focus on ways to protect your business from unnecessary risk when signing contracts. We hope it enlightens and helps you to keep your business safe.

We at Mason-McBride Inc. (MMC) are pleased to aid you in every way we can. In The Know is just one of the many services we offer to keep you abreast of federal laws and insurance issues. We are always ready to work with you to design, implement and execute insurance and benefit programs that fit the specific needs of your business, helping you integrate your legal issues and insurance and financial objectives.

After reading any issue of In The Know, if you have questions or want more detail about the information you just read, do not hesitate to call us. Or if you feel you might not be fully in compliance with any federal laws, MMC can perform a Compliance Check™ audit that will review your existing compliance programs to see if you do indeed have any gaps and offer workable solutions that fit your business.

Whatever your needs, we look forward to hearing from you and working together for your benefit. In the meantime, please enjoy this fact-filled issue of In the Know.

Exposing Yourself...to Risk? Top 8 Mistakes To Avoid When Signing Contracts *by Scott P. McBride, CIC, LIC*

Legally binding contracts are an important part of any business. Think Purchase Order, Building Lease, or Insurance Policy – to name just a few. If you are in the position of signing contracts or being held responsible for the contracts of your business, the following information could save you money and even, possibly, your neck. At a minimum, you'll walk away with a new sensitivity to the risks you assume when signing contracts.

Although we'll primarily be talking about insurance here, the following holds true for practically any contract you enter: If you don't read and comprehend the requirements you are being held to in the contract, you risk being responsible for any gap between those requirements and what you provide. Said another way, YOU are responsible for whatever you sign – so make sure you read and understand it!

A few examples are in order here. Let's say you head a small manufacturing operation that supplies seat belts to an auto OEM. The clasps are supplied to you for assembly into the belt. The OEM has specified the tensile requirements of the belt assembly in your contract. Who would you say is responsible for ensuring that the tensile strength of the clasp meets the OEM's requirements?

Here's another question to think about. If you have an endorsement in your insurance policy specifically designed to limit your liability for late deliveries due to weather, but your customer's contract with you disallows any and all endorsements, are you protected against financial penalties when you miss a delivery deadline because your plant was closed due to a blizzard?

Lastly, what happens in the case where you hold \$1 million in liability insurance but a contract you signed, after glossing over it because it was "a standard agreement," requires \$5 million in liability coverage? Who's responsible for the \$4 million gap?

In each of the above cases, if you signed the contract that didn't hold up to your client's requirements – even if you assumed or thought it did – you have exposed yourself to the risk of substantial loss. To protect yourself and your firm, you need to understand the risks you assume whenever you sign a contract.

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Top 8 Mistakes

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Here are the 8 most common mistakes that could leave you vulnerable:

1. Dollar amounts don't match between the contract and your insurance coverage
2. Endorsements, which by their nature change the language of the contract, aren't understood
3. Inappropriate or incorrect type of coverage is provided vs. what is required
4. Bonds
5. Products recall
6. Providing more coverage than what is required
7. No plan in place for coverage after a loss
8. Coverage doesn't match client needs

For the first item, you will want to ensure that all the dollar amount requirements stated in the contract do not exceed your policy limits.

In number 2, you must check to see if there are limitations to, or exclusions of endorsements, in the contract you are signing. If there are, your contract must comply to provide you the protection you seek.

For number 3, let's say in a contract you are entering, you are required to hold workers' compensation, general liability and professional liability coverage. You might assume your general liability provides protection for errors by your professional staff (so you can save some money bypassing the specific professional liability coverage).

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However, if a costly error occurred due to a mistake by your staff, and you looked to your general liability coverage for protection, you would find yourself "exposed." The types of coverages you provide must align exactly with the stated requirements.

The important factor in number 4 is that you comprehend what you obligate yourself to in the contract in terms of any bonds specified. For example, you must know if you are being held to a performance bond. It could end up being a very costly mistake to be blind to a \$50,000 per day performance bond you signed as part of a contract.

Experiencing a product recall (number 5) certainly is a nightmare in anyone's opinion. Holding a Products Recall policy, if available, could prevent you from an extremely expensive exposure.

Number 6 serves as a good reminder that you don't want to provide more coverage than what is required. For example, if you were to list someone you are entering into a business contract with as an "additional insured," you're essentially giving them the legal right to the entire amount of the policy. ONLY provide that which is required.

In the event that you do experience a loss (number 7), do you have a plan in place to secure additional, continuous insurance? Especially in the case of major catastrophic losses, you don't want to be left totally exposed if your coverage was depleted at the onset or first of several events.

In number 8, ensure the required coverage matches the customer's needs to mitigate the extent of the obligations you are taking on. You know your business better than anyone; you know your exposures, vulnerabilities.

An insurance industry analyst estimates that approximately 50% of those who sign contracts assume more risk than they are aware of.

This is completely preventable by:

- Reading and understanding the terms of the contract
- Making sure your insurance program is structured properly
- Knowing what your insurance policy does –and does not – provide before you experience a loss

Although it's been said before, you really do need to **"Cover Your Assets!"**

About the Author

Scott P. McBride, CIC, LIC, is treasurer/secretary for Mason McBride Inc. He has worked in the industry for more than 20 years. You can contact him at smcbride@Mason-McBride.com.

We're here for you.

Contact:

Mason-McBride Inc.

2301 West Big Beaver Road, Suite 400

P.O. Box 7028

Troy, Michigan 48007

248-822-7170 phone

248-822-7150 fax

www.Mason-McBride.com