

DUAL

Management Liability Claims Examples



Directors and Officers

Engineer

- 56 staff
- \$20M turnover

Background

The Insured agreed to propagate berry fruit varieties for the Claimant who in turn provided them with the plant material. At various times, the Claimant would place orders with the Insured to propagate blueberry and raspberry plants.

There was a contractual dispute as to whether this agreement applied to all orders with the Insured stating that each order created a separate contract. The Claimant sought to

terminate the Agreement alleging that the Insured failed to fulfill orders that were placed.

Outcome

The plaintiffs accepted an offer from the Claimant to the sum of \$400,000 in full and final settlement of the claim.

Payment: \$592,000.

Entity

Machinery and Equipment Manufacturer

- 8 staff
- \$2M turnover

Background

A claim was made against the Insured by a competitor, alleging that they used Google AdWords Advertising to misrepresent their ability to provide the same products and services as the Claimant.

Outcome

The Insured was able to claim under the Entity section of the Policy and was covered for legal defence costs and settlement to the Claimant.

Payment: \$42,000.

Machinery Manufacturer

- 16 staff
- \$2M turnover

Background

The Insured provided transport and logistics services to the Claimants over a 5 year period. The Claimants sought compensation under the Australian Consumer Law in respect to fraudulent and misleading practices carried out by the Insured.

Outcome

The matter was settled at an informal settlement conference. The Insured was covered for settlement and defence costs under the Entity section of the Policy.

Payment: \$222,820.

Employment Practices Liability

Retailer

- 7 staff
- \$500K turnover

Background

An employee of the Insured lodged a complaint with the Human Rights Commission alleging that she had been sexually harassed by the Manager and sought compensation of \$190,000.

Outcome

The Insured was able to claim under the EPL section of the Policy in respect to harassment and discrimination charges, settlement and legal costs in defending the claim.

Payment: \$250,000.

Property Development

- 41 staff
- \$7.5M turnover

Background

An employee of the Insured lodged an unfair dismissal with the Fair Work Commission. The employee alleged that he had been terminated because he exercised his right to make a complaint at work. The Claimant sought reimbursement for financial and non-financial losses as a result of his termination.

Outcome

The Insured was able to claim settlement and legal defence costs under the EPL section of the Policy.

Payment: \$65,000.

Food Manufacturer

- 7 staff
- \$4M turnover

Background

An ex-employee of the Insured lodged an application for Unfair Dismissal with the Fair Work Commission. The Claimant alleged that they had been unfairly dismissed from their job because they had not been involved in any misconduct during their employment and the termination process they went through was unfair.

Outcome

The Insured faced reputational damage if the claim proceeded to a public hearing in the Fair Work Commission. DUAL engaged Lawyers to defend the claim who were able to resolve the dispute through a settlement agreement. The Insured was able to claim under the EPL section of the Policy for settlement and legal defence costs.

Payment: \$56,000.

Licensed Club

- 26 staff
- \$7M turnover

Background

A customer was refused entry into the Insured's club for wearing a singlet which was against Club Dress Code regulations. The Customer lodged a claim with the Anti-Discrimination Board alleging that the Insured's dress code was discriminatory as a female patron was allowed entry wearing a singlet.

Outcome

The Insured agreed to provide a formal apology to the patron and arrange for staff training to better handle similar situations. The Insured was able to claim for legal costs in relation to defending the claim under the EPL section of the Policy.

Payment: \$21,500.

Transport

- 180 staff
- \$17M turnover

Background

The Claimant brought action against the Insured for unlawful sexual discrimination, harassment, victimisation and racial discrimination made towards them in the workplace.

Outcome

The matter was taken to mediation and a settlement was eventually reached. The EPL section of the Policy was triggered and payment was made in relation to the settlement and costs associated with defending the claim.

Payment: \$160,000.

Crime

Food Wholesaler

- 40 staff
- \$80M turnover

Background

Over the course of 1 year, an employee of the Insured voided sales invoices and embezzled funds from the Company into their personal account totaling \$400,000.

Outcome

The Insured was able to claim under the Crime section of the Policy for reimbursement of the lost funds.

Payment: \$430,000.

Veterinary Clinic

- 30 staff
- \$3M turnover

Background

The manager of the Insured's Clinic defrauded the Insured by fraudulently using the company credit card, making payments to a fake supplier and overpaying their wages. When the fraud was discovered, the manager took their own life. The total amount embezzled from the company was \$200,000.

Outcome

The loss nearly forced the Insured out of business however, they were able to seek full reimbursement (subject to the Policy excess) for the fraud under the Crime section of their Policy.

Payment: \$180,000.

Tax Audit

Hotel

- 15 staff
- \$2M turnover

Background

The Office of State Revenue conducted an audit in relation to tax returns previously lodged by various entities within the Insured's group of companies.

Outcome

The Insured purchased the Tax Audit Extension under their Management Liability Policy and were able to claim in respect to Accountants' costs in responding to the audit.

Payment: \$40,000.

Construction Company

- 20 staff
- \$30M turnover

Background

The Insured was the subject of an ATO Audit for its tax returns between the years of 2014 – 2017.

Outcome

The Insured engaged their Accountant to assist in responding to the audit. The Insured was able to claim under the Tax Audit section of the Policy in respect to reimbursement for Accountant fees.

Payment: \$67,000.

Statutory Liability

Importing / Exporting

- 18 staff
- \$8M turnover

Background

The Insured was an importer of road wheels from China. They were investigated by Australian Customs and charged with obtaining a financial advantage with their wheels through the submission of false documents and avoiding customs dumping and countervailing duties.

Outcome

Indemnity was granted for defence costs. The potential penalties were severe for the Insured including lengthy terms of imprisonment. DUAL funded the appeals process as well as the defence.

Payment: \$150,000.

Construction Company

- 93 staff
- \$18M turnover

Background

A series of safety lapses and a failure to check due process and procedures led to an incident where a contractor of the Insured injured his arm.

Outcome

The Statutory Liability section of the Policy was triggered. The Insured received a \$400,000 fine under the OH&S Act and incurred close to \$200,000 in costs defending the claim.

Payment: \$593,500.

Trade Services

- 50 staff
- \$40M turnover

Background

A young employee of the Insured suffered a serious crush injury to his hand and amputation of four fingers after an accident at work. SafeWork alleged that the Insured failed to provide a proper induction, adequate instructions on the operation of a press machine and supervision to the employee.

Outcome

The Statutory Liability section of the Policy was triggered. Indemnity was paid to the Insured for defence costs and legal costs in relation to negotiating an appropriate Enforceable Undertaking to ensure the incident never occurred again.

Payment: \$220,000.