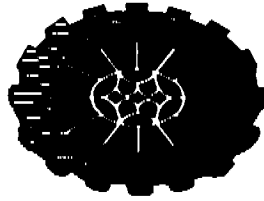


# SOLUTIONS

THE  
McLAUGHLIN  
COMPANY



CREATIVE RISK  
MANAGEMENT INC.

Volume 1, Number 1

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## ARE YOU TRANSFERRING FUNDS BY TELEPHONE?

### COMPUTER FRAUD

In addition to the \$40 billion lost to internal theft, businesses lose over \$6 billion each year because of robbery and burglary...and that number is on the rise. The reason is the increase in losses resulting from the dishonest or unauthorized use of a computer.

We are seeing an increase in high-tech robbery - a type potentially more dangerous - financially speaking. This high-tech robber never has to set foot on your premises. Every day, billions of dollars are being transferred electronically from point A to point B that might not make it all the way to point B.

Computer Fraud Coverage is available.

Computer Fraud means "theft" of property following and directly related to the use of any computer to fraudulently cause a transfer of that property from inside the "premises" or "banking premises" to a person (other than a "messenger") outside those "premises" or to a place outside those "premises".

It is important to note that this coverage form **excludes** acts of employees, directors, trustees or representatives acting alone or in collusion with other persons; or while performing services for you or otherwise. In fact, exposure from an insured's own information system personnel greatly exceeds the possibility of exposure to an outsider causing a substantial loss. It is important, therefore, that your limit of Employee Dishonesty coverage be chosen with this in mind.

We feel strongly that all organizations need protection from this hazard. The coverages can be tailored to fit your needs.

### IN THIS ISSUE

**Computer Fraud** -- What you can do about high-tech robbers

**Insurance Binders** -- Avoid coverage disputes and possible litigation by insisting on temporary binders that describe your understanding of the coverage.

**Who is Insured?** -- Will your insurance policy respond when needed? This simple test will tell you.

### GOTCHA COVERED??

There are five basic requirements which must be satisfied before your policy will respond to a loss:

1. If your policy is an "occurrence policy", the insurance *must be in effect* at the time of loss. If your policy is a "claims made" policy, the insurance *must be in effect* at the time of the claim.
2. The allegation must *"trigger"* coverage.
3. The loss must occur in the *"coverage territory"*
4. The loss *must not be excluded* by the policy
5. THE ENTITY BEING ASKED TO PAY MUST BE AN INSURED UNDER THE POLICY

If ALL of these requirements are not satisfied, your policy will not respond.

Unfortunately, it has been our experience that the requirement that is the easiest to address **before the claim** is one that presents the biggest problem after the claim. Therefore, in this issue we are going to take a look at **WHO IS AN INSURED.**

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## WHO IS AN INSURED?

The definition of "insured" varies from policy to policy. The following is an overview of the entities insured under various liability contracts. *Please note: this is not intended to fully detail coverage. For a complete description, refer to the actual policy form.*

### Professional Liability (E&O, Malpractice)

Named Insured  
Employees\*

### Directors & Officers Liability

Named Corporation for Reimbursement  
Current, Past & New Directors & Officers  
Newly-Acquired Corporations\*

### Non-Profit Association Liability Insurance

Entity named in the declarations  
Current, Past and New Directors, Officers,  
Trustees, Employees, Volunteers, or  
Members of any duly constituted committees  
of the Entity

### Employment Related Practices Liability:

Named Insured  
Officers\*  
Directors\*  
Stockholders  
Employees  
Newly-Acquired Corporations\*

### Fiduciary Liability

Employee Benefit Plan(s)  
Sponsor of Plan  
Trustees  
Administrator\*  
Employees of the Plan

### Commercial General Liability

Named Insured  
Officers  
Directors  
Stockholders  
Employees\*  
Real Estate Managers  
Newly Acquired Corporations

### Business Auto Policy

Named Insured  
Others using covered autos with  
permission, except:  
Owner of auto\*  
Employees using own auto\*  
Used in Auto business

### Employers Liability

Named Insured

### Environmental Impairment Liability

Named Insured  
Officers  
Directors  
Stockholders  
Employees

### Liquor Liability

Named Insured  
Employees

\*Subject to restrictions. See policy form for details and exclusions

## Review your own policies today!

1. Check the **Named Insured** which appears on the declarations page of each of your policies. Are there any entities - other than the **INSUREDS** shown on the guide - who might be asked to pay?

2. Past Partnerships and Joint Ventures create special coverage problems because no person or organization is an insured with respect to the conduct of any past partnership or joint venture unless that entity is shown as a Named Insured in the Declarations. Have you ever joint ventured with other organizations?

3. Have you ever operated under a different entity name?

4. Do you plan to acquire any organizations within the next year?

5. Have you acquired any organizations in the last 25 years?

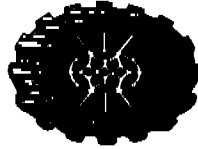
6. Do you employ any professionals (for example: doctors, nurses, architects, engineers, lawyers, actuaries)?

7. Have you signed any contracts, leases, or indemnification agreements?

If you have answered "yes" to any of these questions, we need to talk to you to make sure all entities that might be asked to pay are insured under your policies.

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## Scrutinize Coverage Binders

*The following is an adaptation from an article in one of our Risk Management services*

When was the last time you received an insurance policy before the inception date? It doesn't happen very often. Chances are good it has never happened to you. Even with an uncomplicated renewal where there is no bidding and the coverage renews with the same insurer, policy issuance can take weeks or even months. We are aware of foreign placements taking more than a year to be issued; some policies are never issued.

Unless a correctly issued policy is received before its inception, the broker or agent must give the insured a binder or other evidence that the coverage is in place. Since you won't be able to review the policy and make necessary corrections prior to its inception, the evidence of coverage needs to state that:

1. The new or renewal policy is at least as broad as the old policy, or
2. All coverage changes or special terms and conditions - no matter how minor - are clearly identified

Requiring the broker or agent to deliver the policy or binder in advance of the inception date allows all parties to address discrepancies before the contract is effective. Note, too, that binders may be issued with expiration dates, or may be valid for a limited period of time. If the policy cannot be issued within the binder period, make sure the binder is reissued for an additional period. Also, binders should be signed and dated and the inception and expiration of the policy should be clearly stated on the binder.

Binders needn't be standardized forms, such as those produced by ACORD, but they must accurately describe the coverage, including non-standard features, in order to avoid an incorrect interpretation. Binders should be delivered immediately upon the insured's placement instructions. Agents and brokers, however, should still strive to deliver a correct policy prior to its inception date.

Avoid coverage disputes and possible litigation by making your brokers do what they ought to do?

*This is our commitment to you.*

IN THE NEXT ISSUE OF

## SOLUTIONS

**Employment Related Suits** -- The growth industry of the 90's

**Telephone Fraud** -- You might be surprised who has your number

**Motor Vehicle Safety** -- How you can get ready for the OSHA motor vehicle safety rules that are just down the road

SOLUTIONS is a service of The McLaughlin Company and Creative Risk Management -- offering you timely and creative solutions to all your INSURANCE and RISK MANAGEMENT NEEDS.

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