

INTELLIGENCE THAT WORKS

BRG Business Insurance Claims Practice :

Managing a Complex Business Interruption Claim and Cyber Event

15th Annual Rocky Mountain RIMS Educational Forum

THINKBRG.COM



Agenda

Unprecedented Losses in 2020 - 2021

Pre-Loss Claims Management

Best Practices to Handle a Claim

Important Extensions of Coverage

Key Strategies for Claim Settlement

What is a Cyber Risk

Questions

Unprecedented Losses in 2020-2021



COVID-19



California Wildfires



Weather Events:
Hurricanes/Floods/Freezes



Riots



Cyber/Ransomware



Construction Defects
/ Builder's Risk



Fires/Explosions



Tornados



Product Recalls



Equipment Failures

Pre-Loss Claims Best Practices

Review Insurance Contract (Policy)

Ensure Accurate Property and BI Values

Establish Claims Management Protocol

Build Your Team

Business Interruption Considerations

- Do Business Interruption (BI) Values accurately reflect the exposure?
- Certain revenue streams may not be at risk from physical disruption. Conversely, certain revenue streams may be at risk when there is no physical disruption to the Insured's premises.
- Will Business Continuity Plans (formal or informal) reduce your BI loss? If so by how much? If not, should you adjust the values declaration?
- Should you report BI values for data centers? Call centers? Corporate HQ? Distribution Centers? If so, how much? If any of these services are provided by outsourced providers, is your CBI limit adequate?
- If you have percentage deductibles, do you know to what value that percentage will be applied in the event of a loss?



The Insured's Team of Professionals

It is important for the Insured to establish a team of professionals representing its own interests before a loss.



Internal

- ✓ Risk Manager
- ✓ Operations
- ✓ Finance
- ✓ General Counsel



External

- ✓ Insurance Broker
- ✓ Forensic Accountant
- ✓ Engineer / Contractor
- ✓ Coverage Counsel



Named Adjuster

- ✓ A pre-determined Adjuster may be named in a policy which the Insured and Insurer agree upon

Key Early Steps

- Request an on-site visit by adjuster ASAP
- Assume responsibility of measuring your own claim with your forensic accountants, contractors, engineers, etc.
- Form a “Claims Strategy”/Manage Expectations
- Strategic Communications with Adjuster:
 - Schedule **regular meetings** with adjuster and representatives
 - Make frequent and supported requests for **interim cash advances**
 - Develop and **communicate rebuild plan** / period of restoration plan to adjuster
 - **Keep adjuster informed** of major decisions
 - Seek **approval** for expenses



Potential BI Challenges

- Attributing business interruption income loss to direct physical damage
- Ordinary course of business forecasts
- Trending historical results, budgets, etc. (“But For” the loss)
- Period of indemnity performance and necessity of continuing expense
- Market/economic conditions
- Comparables
- “Make-up” sales and other offsets



An Insured's future revenues and profits are inherently unpredictable. The earnings of the business before the date of damage and the probable earnings thereafter, had no loss occurred, is complex and can lead to differences.

Insurance Coverage Available to Consider



- Contingent business interruption*
- Civil Authority*
- Off premises service interruption including overhead transmission lines*
- Ingress/Egress*
- Extended period of indemnity
- Ordinary payroll coverage
- Inventory at selling price vs. cost
- Loss of Attraction Property
- Extra Expense
- Pollution
- Clear language on trigger for extensions of coverage
- Claim preparation fee coverage

* Direct property damage not required



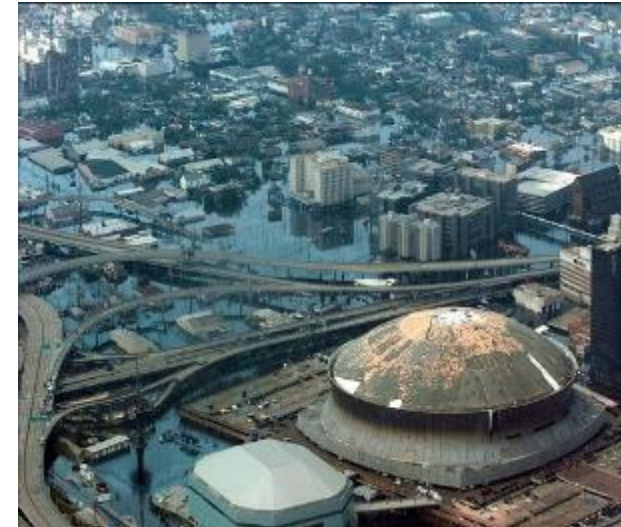
CONTINGENT TIME ELEMENT

- Increasingly relevant as supply chains become more complex and operate with slimmer inventory
- Important to identify different types of suppliers and applicable policy limitations
 - Direct
 - Tier 1 / Tier 2 customers or suppliers
 - “Scheduled” customers/suppliers
 - Watch for territorial limitations
- Try to include ALL suppliers and customers → If this is unavailable, **DOCUMENT** the limitations and communicate to stakeholders



Service Interruption

- Type of utility power
- Transmission & distribution lines
- Distance requirement
- Deductibles/waiting period
- Sublimit
- Peril that caused the service interruption may not be covered by policy (cyber)
- Make sure coverage includes:
 - PD & time element
 - All utility services (steam, water, air, and telecom)



Extended Period of Indemnity Issues

- Often only applies to BI
- Should be extended to other time element coverages:
 - Service interruption
 - Extra expense
 - Contingent BI
- Consider special wording for FDA or other regulatory body to allow for recertification by regulator
- Make sure you have an appropriate extended period duration (90, 180, 365 days)



Ordinary Payroll

- When is it appropriate to cover ordinary payroll?
 - When contractually required
 - Skilled /Semi-skilled labor
 - Other?
- Match reported values with coverage
- Consider union obligations and international laws if operations are global



Ongoing Strategies To Help Settle a Claim

- Do not lose sight of the fact that an insurance claim is a cooperative and adversarial process at the same time
- Regular Interim Claim Submissions, eliminate surprises
- Segregate factual issues from judgment issues
- Consider viewpoint of insurer – “Devil’s Advocate” while at the same time understand the strengths & weaknesses of the claim (have reasonable expectations)
- Prevent adversarial situations throughout the process; resolve differences item by item; agree to disagree and move on; resist time pressures



Claims Settlement Process

During the resolution-claim settlement process, it is important to:

Set appropriate expectations

Understanding the options

- **Compromise**
- **Appraisal**
- **Litigation**

Understand unique facts and circumstances surrounding the claim and the policy



What is Cyber Risk



Overview of Cyber Intrusion

- Cyber risk: Loss associated with the use of electronic devices, computers, IT, and virtual reality.
- 1 of out every 130 e-mails contains malware.
- 4,000 ransomware attacks every day.

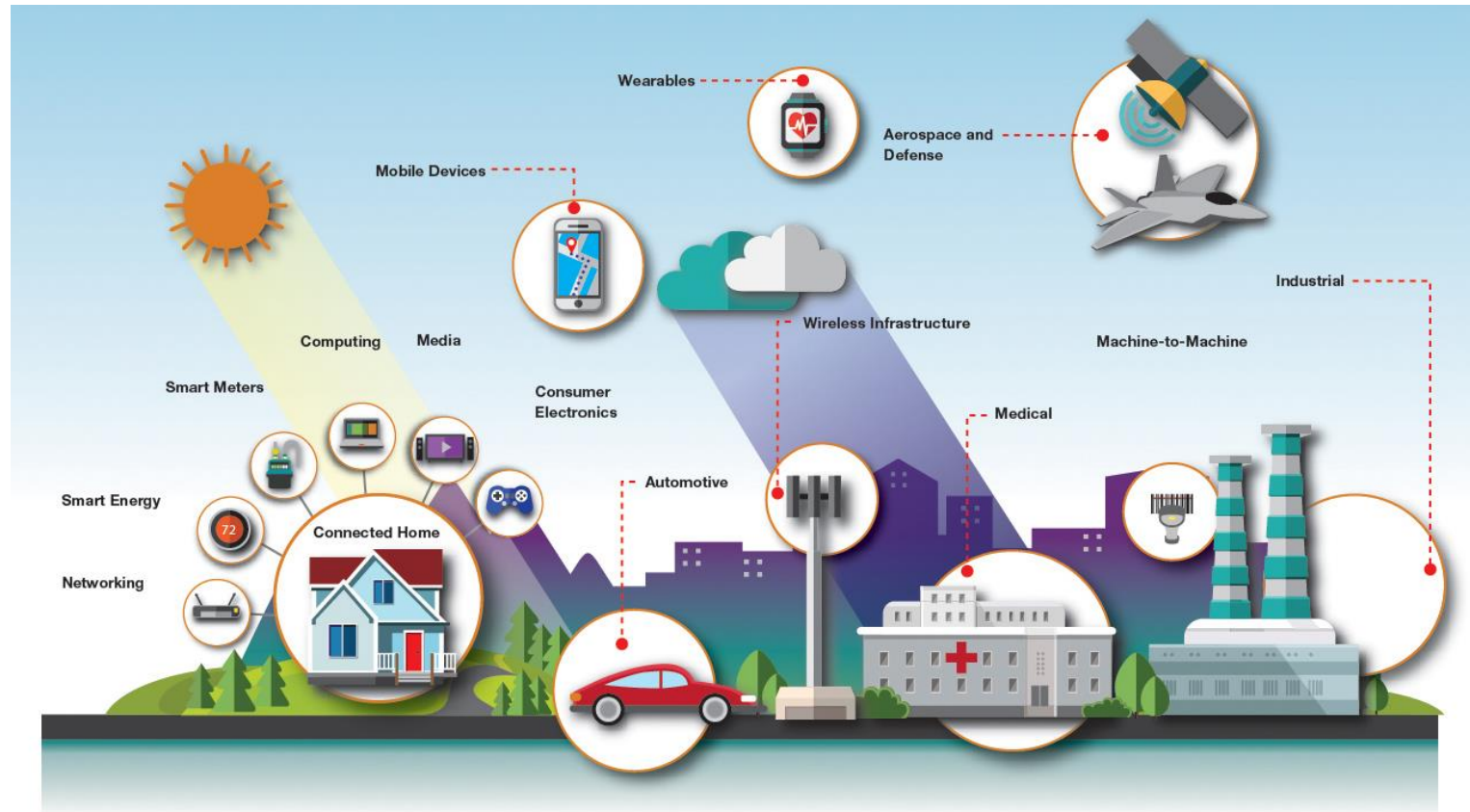


Who Are The Villains?

- Hackers
- Hacktivists
- Cyber terrorists
- Nation-state actors
- Organized criminal groups



Cyber-Physical Attacks – Internet of Things



So...What Is An “Everyday” Cyber Intrusion?

- **MALWARE** – Compromises system operation by performing unauthorized function or process. Attacker's spy and steal private info.
- **SOCIAL ENGINEERING** – non-technical manipulation to obtain information.
- **PHISHING** - Digital form of social engineering to deceive individuals into providing sensitive information.
- **SPOOFING** - Attacker pretends to be someone else to enter a secure system.
- **RANSOMWARE:** Digital extortion; attacker demands on-line ransom to restore access.

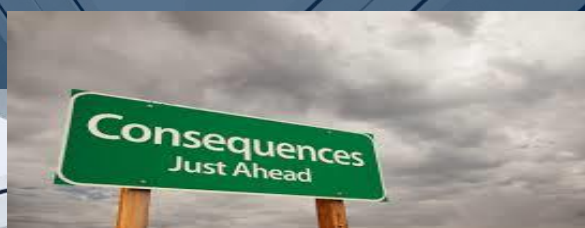


Employee Education on Scams

- **From:** +1 204 647 8393 WIRELESS CALLER
- **To:** [Robert Glasser](#)
- **Subject:** [EXT]Incoming Voice message from 204-647-8393
- **Date:** Monday, December 10, 2021 3:08:38 PM
- rglasser@thinkbrg.com
- You have a voicemail from +1 (204) 647 8393
- Length: 00:08:07
- Date Received: 12/10/2018 Expired: 12/11/2018
- [Play Voicemail](#)
- Regards, Voice Central

Critical Action Steps in a Cyber Claim

- Notice issues
- Proof of security measures
- Policy and regulatory compliance
- IT steps to mitigate/investigate the breach
- Determine loss of profits from BI/CBI loss
- Client/public response and notification
- Law enforcement involvement



Summary

Preparing a Credible Claim That Gets Paid

- Manage expectations
- Frequent and strategic communications
- Estimate high
- Avoid the fluff
- Support everything
- Working with an experienced team of professionals
- Match claim to the coverage with strategic bucketing



Questions

Your Team



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Bob Glasser is a managing director based in New York. He is a CPA, Certified Fraud Examiner, Certified in Financial Forensics, a Certified Insolvency and Reorganization Accountant, and a Chartered Global Management Accountant. He has more than thirty-five years of diverse financial management, insurance claims, and accounting and forensic fraud investigation experience at public and private companies. He helps insured businesses prepare and substantiate business interruption and property damage claims resulting from physical damage due to hurricanes and other perils. His experience covers a wide range of industries including hospitality, real estate, manufacturing, retail, and service organizations.

Mr. Glasser performs and leads domestic and international forensic fraud investigations involving alleged acts of employee dishonesty, embezzlement, and corruption involving the preparation of claims with insurance coverage. He has also participated in financial reporting fraud investigations, including matters relating to revenue recognition and earnings management, including stock-option backdating. He has prepared claims involving a wide range of industries including hospitality, mortgage/real estate, manufacturing, and retail. He has also participated in dispute resolution engagements and has been retained as an appraiser and court-appointed Umpire.



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