

## E&O Claims Lurking in Natural Catastrophes

It often takes an uncovered loss from a client for an agent's errors & omissions claim to occur. Unfortunately, natural catastrophes can reveal, on a large scale, where clients' coverages may be lacking and E&O claims lurking. Natural catastrophes are occurring more frequently and claims against insurance agents for resulting uncovered losses are also becoming more prevalent.

Recently, the Federal Emergency Management Agency (FEMA) issued a report indicating the probability of a 7.7 magnitude earthquake along the New Madrid fault, which would primarily affect Missouri, Illinois and Tennessee, could result in losses exceeding \$124 billion. Hurricane Katrina's and Ike's effects also continue to be felt and total losses from those two catastrophes alone are in the hundreds of millions of dollars. Natural wildfires, while occurring primarily in the western U.S., can occur wherever dry timber and grasses accumulate and therefore pose a threat to areas nationwide. In 2007 alone, wildfires caused \$790 million in direct dollar losses.

The pitfalls that can besiege an agent from uncovered losses include: failure to place the proper coverage, the failure to recommend appropriate business protection coverage, placing coverage with inadequate limits and the lack of a contingency plan to get the



agency back in business quickly following a disaster. However, information on preventing or counteracting uncovered claims is readily available.

The following are some risk management prevention tips relating to E&O claims from natural disasters:

\*Obtain a written rejection of coverage for all coverages not taken by your customer.

\*Use checklists to ensure you are offering all of the coverages your personal and commercial customers can use; and ensure that you staff is following the same procedures when providing insurance to customers.

\* Develop a disaster recovery plan in the event that causes your agency is out of commission and needs to be rebuilt in a timely manner.

\* Recommend that your commercial customers develop their own disaster recovery plan.

\* Carrier follow-up and policy review. Follow-up to ensure that coverages you have requested for your customers have been provided by the insurance company. This includes reviewing the application, proposal and actual policy form when received.

\* For your commercial customers, be sure to offer special coverages they might need to effectively protect their business in the event of a natural disaster, including: business interruption, valuable papers, key man, pollution, difference in conditions, ordinance and law, flood/excess flood earthquake.

\* Include increased limits options with every proposal and document rejections.

\* Property valuations. Clients should be the ones to select the value of properties and agents can recommend that use of an appraiser to determine cost to replace property.

\* Documentation is always the key to ensuring you have done what's needed to protect yourself from E&O claims. If your files are stored on paper, give thought to the possibility of those files being destroyed in a natural catastrophe, and the impact that could have on your ability to produce documentation of your customers' insurance coverages.

Like death and taxes, natural disasters have become a way of life in the United States. As an insurance agent, do what you can to help protect your customers' assets and prevent unnecessary E&O claims.

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SIDEBAR

### **HEADLINE: Natural Disaster Planning Resources for Big "I" Members**

Big "I" members who purchase their coverage through Swiss Re, an endorsed carrier of the Big "I" Professional Liability Program, have access to the Big "I" Risk Management Web site – E&O Happens. The site ([www.independentagent.com/EOhappens](http://www.independentagent.com/EOhappens)) provides information relating to specific types of exposures that can help protect agents from unwanted and unnecessary E&O claims, as well as general loss prevention information. Members can also obtain information on planning for a natural disaster in the "hot topics" section of [www.independentagent.com/ACT](http://www.independentagent.com/ACT).

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