



## When Good Things Happen To Good Agents

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Let me tell you a little story. Its Monday, December 21, and an agency owner, let's call him Bob, is trying to get things wrapped up before the holidays so he can be ready for a nice vacation and he'll be back after the first of the year. At about 3:00 pm his administrative assistant tells them he has a call from someone named Frank. He asks who Frank is and she says she doesn't know. Thinking it might be one of his old college buddies, he takes the call. Frank says hi, he's an attorney and he wants to talk to Bob about Kenny, a former insurance customer of Bob's. Frank tells him that they have a trial starting on December 28 and he wants to discuss Kenny with him.

Immediately, Bob' heart sinks and things start to race through his mind: Will his vacation be ruined? But one thing pops into his mind that he remembers from a Swiss Re loss control seminar he went to a few months earlier. The instructor said "If an attorney calls you and wants to talk, remember, unless he's YOUR attorney, he's not your friend. And you DON'T have to talk to him. Instead, ask him what he wants to talk about and don't volunteer any information. Instead, politely tell him you can't talk to him and IMMEDIATELY call the claims department at Swiss Re or your E&O carrier." Bob knows that Kenny has always been a problem customer (late premium payments, unreasonable requests, failing to report changes, etc.). What does this lawyer want? Why is he calling ME????

So Bob told Frank the lawyer, "I'm sorry, but I can't talk to you about Kenny" and hangs up. He immediately calls his state E&O administrator who gives him the number for the Swiss Re claims department. Bob calls and speaks with one of Swiss Re's professional claims staff, Jim, who goes over everything with Bob, and Jim tells him that if anyone calls him or if he receives any letters or documents, including a subpoena, to immediately call him. Sure enough, the next morning the attorney delivers a subpoena for him to testify at his deposition on Thursday, December 24. Merry Christmas!!!

Bob immediately calls Jim the claims handler who tells him to fax the subpoena to him right then, which Bob does. Suffice it to say, in the next two days, an attorney has been retained to represent Bob, the attorney contacts the attorney who issued the subpoena, they talk, the subpoena is withdrawn and Bob's vacation is saved!

The key to this is not that Bob's vacation was saved, (although that's nice too,) but more importantly he remembered what he'd been taught at a Swiss Re/IIABA endorsed loss control seminar: that any time he is contacted by an anyone who wants to talk to him about one of his customers, unless it is his customer, he should assume that they are not wanting to help him and he should contact his E&O claims department. But be careful, if there has been a problem with your customer's policy or a claim, and you receive a call from your customer, a representative from the insurance company or even someone from your state department of insurance, then you may want to call your E&O carrier's claims staff to get some advice as well.

Here's a few other examples of what happens when agents do the right thing:

Agent receives a subpoena for his customer's records. He contacts his E&O claims department who contacts the attorney who issued the subpoena, asks what is they wanted, and determines they only want a copy of the customer's policy. The claims handler obtains that from the agent and forwards it to the attorney.

Agent receives a call from the carrier for a policy of a former customer of the agent and they want to see his file. Agent asks why and they tell him there is a question about the information that was contained in the application. They tell the agent they just want to help him. The agent hangs up and immediately contacts his E&O claims department and the claims handler calls the carrier and asks specifically what information they want. They say they don't know of anything in particular, they just want to see the agent's file to see if they find anything in his notes. The claims handler tells them that if they can tell her anything specifically, they'll see what they locate, but unless they have a specific request, they can't provide anything. They never hear back from the carrier.

Agent receives a call from an upset former customer who has a claim that was denied by the carrier because the policy expired due to non-payment of the premium. The customer tells the agent their going to sue them and hangs up. The agent immediately contacts his E&O claims department, they discuss what happened and the claims handler asks if the agent has any documentation about the cancellation. The agent says yes, he has a copy of the letter from the carrier notifying the customer of the cancellation. The claims handler helps the agent draft a letter to the customer and provides a copy of the cancellation notice. The agent sends the letter and the notice to the customer and the agent never hears from the customer again.

Agent receives a notice of complaint from the state department of insurance and contacts the Swiss Re claims department. The claims handler reviews the complaint, discusses it with the agent, contacts the DOI investigator and helps the agent prepare a formal response refuting the allegations in the complaint. In some limited instances, an attorney is retained to help the agent respond to the complaint. In most cases, the complaints are resolved in the agent's favor without further action. But if the complainant pursues it further including filing a lawsuit, the groundwork to defend the agent has already been laid.

In each one of these cases, as soon as the agent was aware that there might be a problem that could lead to a claim the agent immediately contacted their E&O claims department. The claims department then gathered information from the agent and took steps to avert a claim. In many instances, by taking immediate action with the claims department before an actual lawsuit arises, the claim can be averted.

So you see, not all E&O claim situations end up bad. Many times, good things happen to good agents.

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