

# ERRORS & OMISSIONS

## RISK MANAGEMENT ALERT

### Hurricanes Often Produce More Flood Claims Than Wind Claims



Flooding from recent hurricanes produced large financial losses – and much of it wasn't covered by standard Homeowners or Commercial Property policies. While many insureds found themselves without coverage or with less-than-adequate limits following these powerful storms, some relief was available through government loans. Some flood victims turned to their agents' errors and omission coverage for funding to help rebuild their lives.

Due to increased volatility in weather patterns, it's more important than ever for you to inform insureds about the risk of flood and the availability of risk evaluation tools, mitigation techniques, and coverage through the federal government's National Flood Insurance Program (NFIP) and/or private insurers. If you don't, desperate insureds could take action against you.

The following are actual E&O claims examples, plus suggestions on how to avoid these situations in your agency.

#### Failure to place flood coverage

The insured was a long-term agency customer operating a retail shop written on a Businessowners Policy (BOP). The hurricane caused flood damage to the insured's rented store, resulting in contents and inventory damage. The carrier declined the claim, and the insured sued the agency for failure to offer flood coverage. The agency did not document their file that flood coverage was offered/declined, resulting in a \$325,000 E&O claim with an additional \$145,000 of loss adjustment expenses.

#### Failure to procure adequate flood limits

The agency had written the insured's building coverage, including flood, at the same limit for several years. The insured owned and operated a manufacturing operation, under a different name, which occupied the building. The manufacturing operation was not a named insured under the flood policy nor was contents coverage provided. The storm flooded the building. Flood damage to the building was covered, but there was no coverage for the tenant's contents, resulting in a \$280,000 E&O claim with an additional \$65,000 of loss adjustment expenses.

#### Failure to offer excess flood coverage

The agency placed an NFIP flood policy for homeowners that were insured with a \$250,000 building limit. The agent recalled verbally offering excess flood coverage, but did not document the file. The agency's website proclaimed that they are "Flood Experts," having been named "Agency of the Year" at the National Flood Conference. A hurricane destroyed the home, and the NFIP policy paid the full limits. The insured sued the agency for failure to recommend and place excess flood coverage, resulting in a \$195,000 E&O claim with an additional \$45,000 of loss adjustment expenses.

#### Failure to adequately explain flood policy provisions

The agency wrote a large, complicated property policy for a supermarket chain encompassing numerous locations in multiple states, with flood coverage providing many unique coverage provisions. A hurricane caused flood losses at several of the insured locations. The flood claim adjustment accounted for the various provisions in the policy, with the insured receiving far less coverage than they anticipated. The insured sued the agency, resulting in a \$2,500,000 E&O claim with an additional \$1,500,000 of loss adjustment expenses.

## **E&O Risk Management Solutions**

- Offer all insureds the option to purchase flood insurance in writing
- Use a questionnaire to ask the insured if any changes have taken place in their business which would require additional coverage or limits, so that you have a document indicating their responses
- Review all unique coverages, policy provisions, exclusions, and limitations with the insured, and offer examples of how specific claim situations will be handled in the event of a flood loss
- Have the insured sign an acceptance or denial of coverage form
- Document your agency file
- Repeat this process at each renewal
- Understand that by declaring your agency as an “expert” on its website or in other promotional material you will be increasing the standard of care owed to your customers

The above examples show how flood insurance – or lack thereof – is a frequent cause of E&O claims against insurance agents. Taking time to understand the flood insurance options, offering all options to your clients, and documenting their declination or acceptance of your proposal is sound customer service and E&O loss prevention.

**For more loss control tips, contact your agency association  
or visit [www.uticanational.com/eo](http://www.uticanational.com/eo).**

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[www.uticanational.com](http://www.uticanational.com) • 1.800.598.8422