



# E&O Q&A

By Mary LaPorte, CPCU, CIC, LIC, CPIA

## **Agent's questions about Errors and Omissions, and how E&O losses can be prevented.**

**Q:** My customer is serving in a non-compensated position on the Board of a non-profit organization. He discovered that their Directors and Officers (D&O) liability coverage is \$1,000,000 for 15 Board Members and does not feel he is adequately protected. The Board voted against increasing the limit.

How does he get covered under his Homeowners (HO) policy or Umbrella policy? His HO policy provides Personal Injury but does not mention D&O as a covered cause of loss. Is there something else he can do?

**Campbell, Virginia**

**A:** Campbell, the Homeowner's policy and Personal Umbrella both provide bodily injury and property damage. Most Homeowner's policies can add the coverage of personal injury for an additional premium, while a true umbrella should already include that coverage. This is often accomplished by broadening the definition of "bodily injury" to include actions such as libel, slander, invasion of privacy, wrongful eviction and other similar acts.

If an insured is serving on a non-profit board and not compensated, the Homeowner's policy and the Personal Umbrella both should respond to an incident that results in bodily injury, property damage (and personal injury if included). That is where the confusion comes in. Yes, there is coverage under the Homeowner's Policy for serving on a non-profit board, but not for "wrongful acts" which is why a Directors & Officers Liability (D&O) policy is needed.

Let's use a condominium board as an example. The condo developer ran out of money when building the condos and didn't finish paving all the roads. But as members pay dues over time, the board addresses which streets to pave. The board has limited funds to use this year, so they arrange to pave a small section. It is not the section you live on. You have been planning to move, and when talking to the realtor, she says "too bad you don't live on one of the paved roads, as I could get \$20,000 more for your house." As you look into it, you discover the section of road being paved is the one that a couple board members live on. You are angry. You sue the board and individual members. This is not bodily injury, property damage nor personal injury. This is typically encompassed in the definition of "wrongful acts" under a D&O policy. If the non-profit is unwilling to carry D&O coverage or adequate D&O limits, your insured can obtain an individual D&O policy through the Excess & Surplus Lines (E&S) market.

A lot of people who serve on non-profit boards are willing to do so because they are willing to contribute their time, not necessarily their money. Purchasing their own D&O policy could be fairly expensive. Many would decline the responsibility of serving on a board if they realized that they were unprotected or under-protected. The best we can do as agents is to educate our customers (individuals and non-profits) of the exposure involved and offer options for coverage. The only solution for "wrongful acts" of a non-profit board is to purchase a D&O policy.

*Mary LaPorte is a consultant and educator with a strong background in Errors & Omissions loss prevention. Forward your E&O questions to [marylp@lpinsuranceconsult.com](mailto:marylp@lpinsuranceconsult.com)  
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