CASE STUDIES

NAVIGATING THE NEW FRONTIERS OF PROFESSIONAL LINES INSURANCE

From EPLI to Cyber, partnering with an expert professional lines broker makes the rough road much smoother.

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PROFESSIONAL LINES COVERAGE CHALLENGES

We live in a world where risks evolve rapidly, especially for businesses. In the past few years, companies have weathered pandemic-related shutdowns, staff reductions, and supply-chain disruptions, with the cherry on top being economic and social inflation.

The ripple effect of these changes has significantly impacted all professional lines of insurance, and we've seen the market hardening across the board, making it tough for businesses to get the coverage they need.

In challenging marketing conditions, a strong wholesale broker is an indispensable ally. Partnering with someone who focuses exclusively on professional lines allows you to tap into their vast knowledge, deep carrier relationships, and broad market access. When risks are difficult to place, you can be confident you're getting the very best options available in the marketplace.

THE BIGGEST CHALLENGES IN PROFESSIONAL LINES INSURANCE

1. **Professional insurance coverage is overwhelmingly complex, making coverage gaps and exclusions tricky to identify.** Terms and language can vary significantly from carrier to carrier, which makes comparing quotes difficult. If you don't know what you're looking for, it can be easy to miss coverage gaps or buried exclusions.

   Retail agents can find themselves in an uncomfortable situation if they overlook something that results in an insured's claim being denied. A mistake like this can result in an Error and Omissions claim for the agent and potentially even cost them their job.

2. **It can be near-impossible to find carriers with an underwriting appetite for certain risks when there are drastic marketplace shifts.** Many carriers, for example, dropped EPLI coverage for all restaurants during the COVID pandemic, fearing the backlash and monumental spike in claims from laid-off restaurant workers. Securing the proper insurance coverage for your clients when there is so little available capacity requires strong, long-standing carrier relationships and industry-leading market access.

3. **Quoting a risk with multiple carriers is essential for securing the most advantageous terms and best pricing.** The average retail agent typically has access to a handful of insurance companies that handle professional lines. In a hard market, where carriers are declining more and quoting less, a retail agent could quote with all the carriers they have access to, and still come back with just one quote to work with, which greatly limits what they can offer their client.

4. **Renewals are just as important as placing new business.** Many retail agents—and even some wholesalers—will renew by default year after year with the incumbent carrier. That can put the insured at a significant disadvantage when it comes to maintaining the best coverage terms and pricing.

5. **Securing proper coverage often requires immense creativity.** When markets are hard and overall capacity is limited, it can be impossible to find a carrier willing to shoulder all of an insured's risk. Carriers may place limits on the amount of insurance they're willing to provide, or place exclusions within the policy that leave significant coverage gaps. In these cases, the only way to create the necessary coverage is by building a custom solution across multiple carriers, which cannot be done without sufficient market access.

6. **Determining how much coverage to purchase is difficult and can feel arbitrary.** The amount of insurance a client chooses to buy is a very personalized decision and unique to the company. Some companies are simply more risk-averse than others. While no broker can recommend a specific number, insureds can benefit from knowing what comparable companies are buying, as a starting point. Generalist retail agents often don't work with enough professional lines policies to offer this kind of benchmarking insight.

Partnering with a wholesale broker that specializes in professional lines addresses all these challenges, and more.

A strong wholesale partner can tap into a broader market pool, allowing them to source quotes from more carriers than the average retail agent. Once they have quotes in hand, they know exactly what to look for when comparing terms, to help you avoid common pitfalls and secure the best coverage at a competitive price. Wholesale brokers can also craft custom coverage solutions by combining brokerage, binding authority, and through exclusive program capabilities.

Here are some examples of how specialized professional lines wholesale brokers helped their retail agents overcome some of these challenges.

CASE STUDY 1

New York Restaurant Avoids an EPLI Policy Lapse After Being Non-Renewed

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CASE STUDY 1

NEW YORK RESTAURANT AVOIDS AN EPLI POLICY LAPSE AFTER BEING NON-RENEWED

When COVID-related shutdowns and layoffs made obtaining EPLI policies near-impossible, Jencap beat the odds to find coverage for a New York restaurant.

BAILING OUT A NEW YORK RESTAURANT

One of Jencap's largest New York restaurant clients — a fine dining establishment with multiple locations and over a thousand employees — was one of the many that took a hit during the COVID-19 pandemic. Their once exclusive dining rooms closed and their employees were collecting unemployment.

Like countless other restaurants across the country, they received notice from their longstanding insurance carrier that their Employment Practices Liability Insurance (EPLI) policy would not be renewed. This left them scrambling to find new coverage before their policy lapsed.

THE COVID CLIMATE IN THE HOSPITALITY INDUSTRY

EPLI protects businesses from employee lawsuits ranging from wrongful termination, breach of employment contracts, and mismanagement of employee benefits due to sexual harassment and discrimination. This type of insurance is essential to any business — and was even more so during the pandemic, when emotions ran understandably high and business viability remained uncertain.

At the height of the pandemic, many businesses paused or limited operations. In response, EPLI carriers panicked, fearing the inevitable lawsuits that the pandemic-related layoffs and business challenges would bring. Many EPLI carriers refused to renew existing policies, and if they did, they introduced new, restrictive terms, coupled with soaring deductibles and premiums.

Restaurants, in particular, were hit hard, and an estimated 90,000 were forced to close their doors — either temporarily or permanently — by spring of 2021. Deborah Dioguardi, senior vice president of Jencap Specialty Insurance Services and EPLI specialist, saw countless restaurants struggle to find necessary EPLI coverage.

"When COVID hit, EPLI carriers said, 'we're non-renewing all our restaurants,' because they were scared of the potential claims that could come," said Dioguardi.

BUYING THE RESTAURANT CLIENT TIME TO EXPLORE OPTIONS

When Dioguardi's large New York restaurant client came to her for help, she and the Jencap team sprang into action. Dioguardi worked with the client's retail agent to negotiate a 30-day policy extension with the incumbent carrier. This gave them precious time to source and evaluate alternatives.

"The policy was written on non-admitted paper, so the carrier could have just walked away — without any extension," Dioguardi explained. "But because of our relationship with the carrier, they agreed to 30 days. And if I needed more, I would have battled for more."

Leveraging the network and relationships she had built from over twenty years at Jencap, Dioguardi found the "needle in a haystack" EPLI carrier willing to offer a reasonable quote to a New York restaurant that had closed its doors and already laid off much of its staff.

But the fight wasn't over.

SOLVING TOUGH COVERAGE GAPS WITH CREATIVITY AND PERSISTENCE

While reviewing her restaurant client's quote, Dioguardi discovered a significant coverage gap. During the pandemic, many insurance carriers began adding exclusions for situations related to COVID. In this case, the quote had a downsizing and layoff exclusion.

Given that this was the height of the pandemic, the restaurant was already experiencing significant downsizing and organization-wide layoffs. With this policy, none of those risks were covered. Even after persistent negotiation, the new carrier refused to remove the layoff exclusion.

Determined to find a solution, Dioguardi got creative. Her first step was to make sure the restaurant had coverage to protect them against possible future risks. "We put pressure on the new carrier that quoted the risk, and we were able to get them to offer downsizing and layoff coverage going forward."

From there, Dioguardi and the restaurant's retail agent worked with the restaurant's previous carrier to purchase a one-year extended reporting period (ERP), which would protect the restaurant from any past acts related to COVID downsizing and layoffs.

Diogaurdi explained that coming up with creative solutions is just as important as refusing to take "no" as a final answer.

> *"Carriers will compromise, but you have to bring options to the table. Sometimes it's not your first attempt, and sometimes it's not your second attempt. And sometimes you're not successful with the first person you speak with. With experience, you learn when to move on to the next person and get creative.*

THE BENEFITS OF FOLLOWING UP

A year later, when the new carrier renewed the restaurant's policy, they agreed to remove the downsizing and layoff exclusion *and* provide full coverage for prior acts. This meant the restaurant no longer needed to pay for the ERP coverage, which amounted to substantial cost savings.

The COVID-19 pandemic tested the EPLI marketplace. Some carriers stepped up and supported their insureds during this crisis, while other carriers fell short. Due to Jencap's expertise combined with strong carrier relationships and deep marketplace knowledge, professional lines brokers like Dioguardi provided solutions for our retail agent partners and their insureds during an unprecedented time in history.

Deborah Dioguardi

Senior Vice President of Jencap Specialty Insurance Services

Deborah Dioguardi began her career in insurance in 1998, and has spent the last 23 years at Jencap. She has strong experience across all professional lines, with a special focus on employment practices. Insurance Business America recognized Deborah as a 2020 Top Specialty Broker.

CASE STUDY 2

LARGE REAL ESTATE COMPANY ESCAPES SERIOUS PROFESSIONAL LIABILITY RISKS FROM POLICY OVERSIGHTS

Unless an insurance agent fully understands a real estate company's full business scope, they can end up with costly coverage gaps.

THE VALUE OF A SECOND OPINION

One of Jencap's larger retail agents came to Anthony Manna, senior vice president of Jencap Specialty Insurance Services, with a problem. The agent had an important property management client he'd worked with for over a decade and their policy was up for renewal. The agent was concerned about the renewal terms and wanted a second opinion from someone who focuses exclusively on professional lines.

SOMETHING'S "OFF"

Immediately, Manna felt something wasn't quite right with the policy. It was inexpensive — *too* inexpensive, for a company of this size. Manna dug deeper and spoke with the retail agent for more details. After some legwork, the two discovered that the client was far more than just a property management company. They were also involved in construction and property development, as well as property ownership and management.

The company's current policy only provided coverage for its property management services, with specific exclusions for construction and property management. To make matters even worse, the policy also had exclusions for any claims against property management services that were developed, constructed, or managed by properties owned by the insured.

Put simply: The terms meant the property management company was throwing its money away, paying for a policy that provided no protection.

POLICY OVERSIGHTS CAN LEAD TO E&O CLAIMS

For a retail agent, an oversight like this can open them up to an E&O claim for failing to provide proper services to the client. Manna explained, "If the insured is sued and they don't have coverage, they're going to turn to their agent and say, 'Well, what happened here? Why don't we have coverage? This is your job. We don't do insurance.'"

HOW DO OVERSIGHTS LIKE THIS HAPPEN?

Though both the client and the agent were caught off guard, this situation isn't uncommon—particularly with real estate businesses. According to Manna, in many of these cases, it's a result of miscommunication (or lack of communication) between an agent and their client.

> *"Obviously, you can't really blame the insured. It's not their job to understand insurance. But the agent only knows about the exposures their client tells them, so it's all about knowing the right questions to ask. If they don't know the client is developing the properties they also manage, they won't know what kind of coverage to offer.*

Fortunately, the retail agent reached out to Manna for a second look before it was too late. Had the enormous coverage gaps gone unnoticed and the insured had been taken to court, their insurance policy wouldn't have kicked in to cover legal fees or liability costs.

ACCURATELY ASSESSING RISK MEANS GETTING THE FULL PICTURE

The first step to getting the client appropriate coverage for their portfolio of entities was to collect a complete picture of the company. Manna worked alongside the retail agent to understand, for instance, exactly how many properties the company developed, how many they owned and at what percentage, and which properties they also managed.

Once Manna understood the full scope of operations, he went to his markets in search of a better, more comprehensive policy.

Many wholesale and retail brokers aren't willing to put in the time to carefully pull together and sort through the complexities of a company like this, which can put an insured at a great disadvantage.

TAPPING INTO BROADER CARRIER NETWORKS

Manna marketed the account and landed a quote from a strong, A-plus carrier who had a very broad definition of professional services and offered coverage that fit most of the insured's insurance needs. Through negotiations, Manna also made a few improvements to the initial quoted coverage and provided several important enhancements for things such as Fair Housing and pollutant disclosure.

Manna's final quote provided the property management company and their retail agent so much comfort and relief. Manna recalled, "We were able to put something on the table that solved their concerns and was most appropriate for the insured's type of business. They felt a sense of relief, followed by a lot of gratitude and appreciation for how we were able to lead them through the entire process."

BOTTOM LINE: EXPERTISE IS ESSENTIAL

Beyond the service the Jencap team provided the property management client, Manna was proud of how he could partner with and support the many retail agents he works with on a day-to-day basis.

"Our retail agent partners are responsible for managing all lines of business for their clients. They're handling package policies, life and health policies, property and casualty, general liability, and liquor ... that's a lot to stay on top of," said Manna. "We're here to support them and extend our expertise to them, so they can provide exceptional service and comprehensive coverage to their clients."

Anthony Manna

Senior Vice President of Jencap Specialty Insurance Services

Anthony Manna has spent the last decade with Jencap's professional lines division and specializes in professional, management, and cyber liability. He was recognized as a 2021 Insurance Business America Top Specialist Broker.

CASE STUDY 3

HIDDEN SOCIAL ENGINEERING TRIGGER CLAUSE PUTS COFFEE FRANCHISE AT RISK FOR CLAIMS DENIAL

New cyber risks are developing at an alarming pace. Working with a cyber insurance expert keeps businesses on top of emerging cybersecurity threats and ensures their policies adequately cover current risks.

UNCOVERING HIDDEN TRIGGER CLAUSES

Not long ago, Jencap Managing Director Taras Shalay was approached by a retail agent to quote a very large coffee franchise with hundreds of locations. The agent was unfamiliar with cyber insurance coverage for a business of this size and wanted the support of an expert.

The coffee franchise's current policy had an insuring agreement for social engineering and didn't mention any limitations, other than a sub-limit of $250,000. On the surface, this all seemed very standard and common for the cyber marketplace, but as Shalay dug into the policy language, he noticed a red flag.

Buried deep within the policy form was an endorsement for social engineering with a very alarming trigger clause. In the event of a social engineering incident, the policy would only provide coverage if certain criteria were met.

In this case, the criteria were impossible to meet. We'll use an example to explain.

HOW SOCIAL ENGINEERING WORKS

Let's say a cybercriminal sends an email to an employee in the coffee franchise's accounting department. The email appears to be from the company's CEO and lets the accountant know that one of the company's vendors needs to update their banking information. The message goes on to ask the accountant to wire funds using the new account numbers provided. The email seems authentic, so the accountant complies — and willingly transfers $100k directly into the cyber criminal's account.

The money is now gone, without any apparent element of theft.

In this scenario, the trigger clause in the coffee franchise's policy required the accountant to first verify the authenticity of the request with the CEO before wiring the funds. If they did not do that, the policy wouldn't cover the fraud.

Here's the problem: Had the accountant done this, the theft would have been averted, meaning the risk of social engineering would have been eliminated from the very beginning. This undermines the value of having a social engineering agreement in place to begin with.

THE MAIN CHALLENGE WITH COVERING CYBER RISKS

Cyber is unlike most other insurance lines of business. As a new and emerging market, cyber language and terminology is not standardized throughout the industry and can vary drastically from carrier to carrier. And because technology continues to evolve rapidly, the cyber risks and threats we'll experience five years from now are things we can't even imagine today.

Since this line of coverage is such a moving target, finding issues with policy language can be a challenge for even those familiar with cyber coverage. Fortunately, Shalay's extensive experience aided him in finding this trigger clause that left a coverage gap.

TARGETED MARKETING BEATS "BATCH AND BLAST"

After Shalay and the franchise's retail agent explained the policy gap to the company's board of directors, they began the process of finding an alternative carrier.

Many wholesale brokers take a scatter-shot approach to marketing an account; they shoot off applications to every carrier available to them. They do this out of fear they'll miss something or in an attempt to block other brokers and eliminate competition. But, as explained by Shalay, that's not an ideal situation and can ultimately damage the relationship with a carrier.

> *"Our team goes to great lengths to understand the underwriting guidelines for carriers, what their target risk looks like, and where they shine. When a client comes to us, we're able to submit to a few targeted markets on their behalf. Because of the trust we've built amongst carriers, we get the best terms, the best pricing, and the fastest response time.*

Shalay found a carrier that provided a cyber policy with much less restrictive terms. And on top of that, he leveraged the risk mitigation and security controls the coffee franchise already had in place to negotiate a reduced rate.

PARTNER WITH SPECIALTY WHOLESALERS WHO UNDERSTAND YOUR COVERAGE NEEDS

Shalay has worn many hats throughout his insurance career — from carrier underwriter to retail agent and now a wholesale broker specializing in cyber insurance. Pulling from his diverse background and experience, Shalay is uniquely positioned to understand how to best work with both his carrier and retail agent partners.

At the end of the day, Shalay knows firsthand how challenging and frustrating cyber insurance can be for a retail agent. "I once was an agent myself, and being a strong generalist is their forte. But as insurance has evolved, our retail partners have grown to rely on us to help protect their errors and omissions. We can guide them to the best products and coverage for their clients, without them having to memorize and compare policy language. They can trust us to help them navigate through this ever-changing landscape."

Taras Shalay

Midwest Region Managing Director of Jencap Insurance Services

Taras began his insurance career in 2007 as an underwriter for Philadelphia Insurance Company, where he and his team created and wrote one of the first monoline cyber policies in the standard market. His expertise includes Cyber, D&O, Professional, and Employment Practices Liability.

CASE STUDY 4

TOY MANUFACTURER DODGES A NEARLY MISSED D&O POLICY EXCLUSION AT RENEWAL

Even the most run-of-the-mill renewals can have unwanted surprises — which is why it's crucial to rely on wholesale brokers who thoroughly review each and every quote proposal.

COSTLY EXCLUSIONS CAN BE EASY TO OVERLOOK

Not long ago, a retail agent reached out to Senior Vice President of Jencap Specialty Insurance Services Michael De Feo for support on an upcoming directors and officers (D&O) renewal. The client was a middle-market toy manufacturer, and their existing carrier had a strong reputation and a large market share for companies similar to the client's size. From all appearances, this was a quick and simple renewal.

However, Jencap's standard process for new business always includes a thorough review of existing policies. During his review, De Feo uncovered a troubling exclusion in the renewal quote that wasn't typically found in D&O policies.

Even more troubling, this exclusion was also in the expiring policy. The previous wholesaler had either missed it or failed to mention it. In the event of a claim, the insured would have been denied coverage, putting their retail agent in the very uncomfortable position of explaining why.

COMPARING QUOTES CAN FEEL LIKE SHOOTING AT A MOVING TARGET

Like most professional lines, the D&O market constantly shifts in response to current events and social movements. This makes it difficult to compare coverage and pricing across carriers. It also makes small, yet significant, details easy to miss — especially if you don't know what to look for.

D&O insurance protects company leaders if they are sued for something related to how they manage the company. In the current litigious environment — rife with class-action lawsuits, sexual misconduct allegations, and COVID-related mismanagement claims — De Feo's toy manufacturer client couldn't afford to take chances with a weak policy.

NAVIGATING TOUGH CLIENT RELATIONSHIPS

De Feo approached the existing carrier, asking them to remove the exclusion. When they refused, he began the search for coverage from another carrier. However, there was a problem.

The incumbent carrier had a very lax underwriting process, and because they were so familiar with the account, the renewal submission did not include many details about the client's finances. "I knew we'd need more in-depth information to successfully approach new D&O carriers, since underwriting analysis is based largely on the financial condition of the client," said De Feo.

The client, however, was concerned about confidentiality and reluctant to share additional financial information. At De Feo's suggestion, the retail agent set up a video call with De Feo and the toy manufacturer's CEO and CFO. Together, De Feo and the agent were able to talk through the quoting process and helped their client feel more comfortable with providing the necessary financial details.

BATTLING OUTSIDE COMPETITION

Armed with everything they needed, De Feo began the process of marketing the risk and collecting quotes. He found a quote from a new carrier that provided superior coverage to the client's original policy, without the problematic exclusion.

... But there was another issue.

Unbeknownst to De Feo and the retail agent, the client had responded to a solicitation from another agent, who provided a quote that was 10 percent less than Jencap's leading option. De Feo and the insured's original agent were at risk of losing the business.

ALWAYS COMPARE QUOTES

> *"We reminded the client about the hidden exclusion we found in their existing policy and asked them to share the competing proposal from the new broker, so we could compare terms. No two policies are alike and it was in their best interest to compare terms in addition to overall price.*

The toy manufacturer hesitated, worried that this would put the new broker at an unfair advantage. De Feo encouraged them to share his quote with the new broker, leveling the playing field and giving everyone access to the same information.

"We stressed our broad market access and industry knowledge. We had presented them with multiple quotes from various carriers, while the new broker had only bothered to quote one," recounted De Feo.

The client agreed to share the competing quote. De Feo carefully reviewed both quotes and quickly realized why the competing quote came in at 10 percent less: he found half a dozen areas where his quote offered broader coverage.

WINNING BUSINESS THROUGH TRUST AND RELATIONSHIP-BUILDING

Ultimately, the client chose to bind the account with De Feo, despite the quote being more expensive. Grateful for how hard De Feo and his team worked to earn their business, they went so far as to say that even if they'd chosen the less expensive quote, they would have broken away from the competing broker and given the business to Jencap and their original agent.

Michael De Feo

Senior Vice President of Jencap Specialty Insurance Services

Michael has over 20 years of experience working in Executive Risk, Financial, and Professional Lines. Insurance Business America recognized Michael in 2018 as a Top Specialist Broker.

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