SIOR Leadership Conference Presentation Outline

Part II- Insurance Coverage for Chapters

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III. NAR Insurance Program

A. Program basics

- 1. Program goal: Provide insurance to all levels of the association (including NAR affiliates) when they are acting as a trade association
- 2. Policy is custom-built, and contains many different types of insurance (E&O, D&O, EPLI, Crime)
- 3. Basic coverage is provided at <u>no cost</u> to all qualifying associations
- 4. NAR Affiliates like SIOR and its local chapters are named in the policy's definition of "association"
- 5. Deductibles vary by size, but all SIOR chapters will have a \$3k deductible for any claim made through the program (SIOR national has a \$20k deductible)
- 6. All Program documents are available on realtor.org: http://www.realtor.org/programs/professional-liability-insurance-program
- 7. Buying duplicative coverage could weaken some of the benefits provided through the Program; if have other insurance, recommended that you take the NAR policy to your insurance broker and have him/her examine to make sure you aren't buying insurance that you are already receiving through the NAR Program

B. Types of Coverage Available

- 1. Clause IA- both defense costs and liability up to \$1m (except EPLI, which has \$500k sublimit)
 - a. "Wrongful Acts"- very broad language; protects directors/staff when acting on behalf of the association, including providing services to members such as through disciplinary hearings or arbitrations
 - b. "Publisher's Liability"- coverage for association publications or website/social media statements, and trademark infringement

- c. "Employment Practices"- covers claims arising out of employment, including harassment and discrimination claims. Does not cover lost wages.
- 2. Clause I.B- defense cost-only coverage for a variety of claims, some of which are not relevant to SIOR chapters. Potentially relevant coverages:
 - a. antitrust
 - b. endorsement of products or affinity programs
 - c. breach of contract; however, next year this coverage will change
- 3. Clause I.C- provides coverage if computer system is attacked; will pay for damages incurred as a result of the attach, such as recovery of information or rebuilding systems
- 4. Basic Crime Coverage- covers employee embezzlement claims up to \$10k (\$3k deductible)
- 5. Coverage is triggered by government investigative notices (EEOC, state civil rights agencies (but not unemployment compensation hearings), DOJ, FTC, FEC)
- 6. coverage for association/chapter reporting license law violations
- 7. ADA claims are under I.A
- C. Who is Covered under the Program
 - 1. Generally, when acting on behalf of the association for association business, there is coverage
 - a. members serving as directors, officers, or on committees
 - b. staff performing association functions
 - c. independent contractors in certain functions
 - 2. Charitable foundations covered
 - a. defined as "trust or corporation which is a foundation established for charitable, educational, or research purposes that qualifies as an exempt organization under section 501(c)(3)
 - b. not required to be a 501(c), but must have similar guiding principles
 - c. also, must be organized under state law, as discuss in Part I
 - 3. Association PACs covered
 - 4. Wholly-owned subsidiaries covered

D. Exclusions

- 1. Liability insurance (personal injury-type claims; other property-related claims)
- 2. ERISA claims (if you have a pension program, need to be fiduciary coverage)
- 3. If endorse other types of insurance (health care, auto, etc.), need to consult Exclusion K to learn how to qualify your program for coverage (insurer rated "A", indemnification agreement, voluntary participation by members)

E. Eligibility for Coverage

- 1. In compliance with all mandatory policies/in good standing
- 2. Certain claims have perquisites; only relevant consideration for SIOR chapters is Employer/Employee Guidelines (progressive discipline)

IV. Other insurance

A. Recommendations

- 1. As stated above, show insurance broker NAR policy and make sure that all coverages purchased are not duplicative
- 2. Key consideration for all liability issues: making sure that claims are limited to chapter's assets (why the chapter needs to incorporate)

B. Types of other insurance which may be needed

- 1. Commercial liability insurance
 - a. if you have office space/other areas of exposure
 - b. other property-type claims
- 2. If no office but have events- can purchase "event insurance"
 - a. if serving alcohol, make sure that this will cover any claims arising from the event
 - b. may need to indemnify/insure location hosting event
- 3. Auto insurance (if you provide a car)
- 4. Fiduciary coverage (qualifying pension plan)
- 5. Worker's Comp insurance
- 6. Unemployment compensation (if not required by state law)

C. Affiliate claim scenarios

- 1. Fashion Show Nightmare
 - a. unincorporated chapter
 - b. no separate insurance
 - c. national originally named in lawsuit, but dropped
 - d. demonstrates need for incorporation, following proper corporate formalities, and having adequate insurance

2. Presenter "Breach of Contract" Lawsuit

- a. brought suit against regional chapter
- b. covered through NAR insurance program
- c. another headache of lawsuit; eventually settled
- d. coverage would be limited now in program; again shows the need for following proper formalities

3. "Balloon crash" in desert

- a. potentially exciting claim, but never resulted in any damages
- b. demonstrates need to make sure prizes are from reputable providers and adequate disclaimers are used

4. Crime claim

- a. Chapter discovered theft of approximately \$30k
- b. Threatened to go to police; full restitution made within 3 months

5. Designation Criteria claim

- a. member angry that designation was denied, sued to get application fee refund
- b. covered through NAR program
- c. chapter was victorious in small claims court