



INSight

Insurance Issues for Your Bank Second Quarter, 2010

Employment Practices Liability – What You May Be Missing by Delvan Irwin

Some years ago, I had the chance to meet with a prospective insured in Atlanta, Georgia. One of the insurance coverages that I brought up for discussion was Employment Practices Liability (EPLI). This coverage is designed to protect the bank when it comes to such exposures as harassment, discrimination and the like. *"We have no exposure,"* the banker confidently announced. *"We are a small group here, we've known each other for years, and everybody here knows that we don't tolerate any bad behavior."*

It was a story that I had heard many times before (and since). After our meeting, I began to cut clippings from the newspaper that dealt with claims involving these types of exposures. Within a 60 day period, I had collected articles on 10 different companies that had either been accused of EPLI negligence or who had settled claims for similar wrongful acts. Those claims ranged \$92,000 to \$33,000,000. Want to know the ironic thing? In each of the articles, there was a statement from the company spokesperson. And each of those statements, the company stated that they *"didn't tolerate this type of behavior"*.

If you were to ask any banker who has had to endure such a claim or accusation, they would tell you right away that EPLI is one of the most important portions of their program. Why, then, doesn't everybody insist on including this coverage? The answer is obvious.

Nobody talks about their EPLI claims. And to a large degree, rightly so. Claims in this arena are best kept out of the spotlight for a host of good reasons and each bank wants to ensure that they aren't seen as an entity that promotes or condones unacceptable behavior. This is true regardless of whether or not the allegation is valid. Smart financial institutions spend a great deal of time and money to promote their "friendly and service

oriented" company in an effort to differentiate themselves from competitors. And since nobody talks, the situation becomes similar to the old "chicken and egg" scenario. You may not know how badly you need help ... until you need help!

Will you be protected simply by adding EPLI to your D&O program? Maybe. Maybe not. If you insure your property or automobiles, most insurance companies use standard industry forms. They are issued by ISO, or the Insurance Services Office. But with professional coverages for financial institutions, each form is different. Yes, you heard correctly. Each company writes their own form and coverage can differ tremendously from one company to another.

Would you be surprised to know that one company EPLI form doesn't even cover EPLI? It's true. And unless you have someone that knows the differences inherent in all of the available forms, your bank program may not be as secure as you think.

Take time to fully read this portion of your program. Schedule an appointment with your agent to have them explain the differences in all company offerings. Evaluate your risk level against your coverage. And if you need help, just give us a call. Insuring banks is all we do.



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