

# ExecutivePerils

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## **DIRECTORS' & OFFICERS' LIABILITY CLAIMS EXAMPLES**

(The following examples are for illustrative purposes only)

### **Shareholder Claim:**

A Midwest domiciled home products company retained an independent research firm to evaluate its new home product. Based on a favorable review by the outside firm, the company raised in excess of \$10 million for the production and marketing of the new product. Prior to releasing the product, the company's internal evaluation team discovered, after extensive testing, that the new product did not work properly. Shareholders brought suit against the company, directors and officers for misrepresentation in the offering memorandum. The plaintiff asserted causes of action for violation of various state securities laws. Total costs including defense costs and settlement exceeded \$7,000,000.

### **Competitor Claim:**

The plaintiff filed a complaint against their competitor alleging that a former employee, now working at the competition, engaged in unauthorized use of confidential information and committed other acts of unfair competition. As a result, the plaintiff alleges it has suffered irreparable and immediate injury. In addition, the plaintiff alleges that the defendant has possession of its confidential information and intellectual property. The causes of action included: Misappropriation of trade secrets, violations of the Computer Fraud and Abuse Act and unfair competition. Total Defense costs and settlement exceeded \$400,000.

### **Government Claim:**

The Department of Justice brought suit against the Owner, Chief Financial Officer of an East Coast manufacturing company for price fixing. After an extensive trial, the allegations were dismissed due to lack of evidence, but the defense costs incurred in defending themselves were in excess of \$750,000.

### **Investor Claim:**

A suit was commenced by various investors who participated in start-up company's private placement that raised approximately \$5 million to fund expansion. An investigation made by plaintiffs, primarily from corporate records and documents showed that the Private Placement Memorandum contained numerous materially misleading statements and material omissions of certain facts. The total defense costs and settlement exceeded \$750,000.

THESE SCENARIOS ARE NOT INTENDED TO BE INTERPRETED AS COVERAGE POSITIONS. COVERAGE FOR ANY GIVEN CLAIM IS BASED UPON ITS FACTS AND THE SPECIFIC TERMS AND CONDITIONS OF THE POLICY.

Crime • Directors' & Officers' Liability • Employment Practices Liability • Errors & Omissions • Fiduciary •  
General Partnership and REIT Liability • Insurance Agents E&O • Intellectual Property Insurance  
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