Your Legal Insurance cover is no joke

Avoid that sinking feeling when you discover that a staff member has stolen from your firm’s Trust Fund account and that you, as a Director or Partner, may be held personally liable. Research has shown that the rise in the Misappropriation of Trust Funds is on a catastrophic path. Where in the past this insurance was a luxury, it has now become a necessity.

Want to find out more about the risks involved? Visit our website at www.shackletonrisk.co.za or give us call on 011 784 5373 and ask to see our Risk Bulletin which details some of the more common modus operandi used by would-be thieves.
The Attorneys Fidelity Fund is a fund that through its non-profit arm, the Attorneys Insurance Indemnity Fund (AIIF), supplies all practitioners in South Africa with a base layer of professional indemnity (PI) insurance cover of between R 1 562 500 and R 3 1250 000. The AIIF is in place to settle claims over and above the mandatory primary excess of between R 20 000 and R 315 000. The amount of cover and the excess payable will depend on the number of directors/partners in a law firm and the nature of the legal work undertaken by that firm. This cover is in place to protect practitioners from liability arising as a result of their negligence, errors or omissions. Once the limited cover provided by the AIIF has been depleted, the directors/partners of a law firm become jointly and severally liable for any additional liability in excess of the cover provided by the AIIF.

Our experience in the market has shown a steep upward trend in the number of professional negligence claims that are being laid against practitioners and this is where top-up insurance comes to the fore. If a law firm has taken out additional or ‘top-up’ PI cover, then the top-up cover will ensure that any legitimate claim against the law firm is settled (up to the limit of the additional cover). It is important to note here that our top-up insurance policy carries no secondary excess payable in the event of a claim that exceeds the AIIF base cover. This can be a saving to practitioners of anything from R 15 000 to R 150 000. Our extensive market research has revealed that a large proportion of legal practitioners are under-insured.

Professional indemnity top-up insurance is, as the name suggests, a secondary cover that sits over and above the cover automatically provided by the AIIF. As with the base level of cover, PI top-up insurance protects an attorney from claims arising out of his or her professional negligence. Where a claim against an attorney arises as a result of an attorney’s negligent handling of a matter, the insurer (insurance company/underwriter) settles the claim on behalf of the insured (the law firm that has taken out PI insurance) and the insured is relieved of having to pay out his or her client who suffered a loss as a result of the attorney’s negligence. We have noticed a misconception in the market where practitioners believe that after a PI claim is paid out, the insurer may then have recourse against the practitioners themselves. This is not the case, as the cover is an indemnity policy designed to protect the practitioner. There is no further recourse against the practitioner. Practitioners are urged to seriously consider this top-up insurance because, when a claim arises, it can be catastrophic for the partners or directors of the firm.

One of the hardest questions that we get asked by our clients is: “What is the correct level of indemnity to take out?” Ultimately, that is a decision for the partners or directors to make, although commercial banks, for example, will insist that any practitioner who sits on their panel (and to whom they refer work) must have a predetermined level of cover. This level of cover is often way above the base levels offered through the AIIF. PI top-up cover indemnity limits are, in this instance, determined as a commercial decision by the practitioners and the higher the limit, the higher the value of work that the banks will refer to them. Another factor for consideration is the type of work that practitioners do. A look at recent claim trends indicates that conveyancing and Road Accident Fund prescription matters are currently the most common.

Firms that do these lines of work are statistically seen to be more at risk and thus we recommend to these clients that they take out higher indemnity limits to mitigate this risk. Other factors to consider are the firm’s claims’ history and the average size of the matter that a firm works on. These are key indicators in determining an appropriate level of cover. Shackleton Risk Management is conscious of affordability issues and will assist by offering a range of limits to ensure that adequate cover and affordable premiums are aligned.

In addition to the top-up PI insurance, we are also able to offer two other products. The first is fidelity guarantee insurance, which protects practitioners from theft of their business account funds or physical assets within a law firm by its staff members. The second is misappropriation of trust fund insurance, which protects practitioners from theft of their trust fund monies by dishonest staff members or partners.

We would be delighted to assist you with all your legal insurance needs. Please contact us at tel: (011) 784 5373, e-mail us at info@srisk.co.za or visit www.shackletonrisk.co.za to find out more.
KwaZulu-Natal Law Society

Supplement to De Rebus, July 2013

Supervised by

Mooraj, MR, Terblanche Slabber Pieters Attorneys, Malmesbury, 12-4-2013.

Mooraj, SJ, Schutte Attorneys, Hopetown, 15-3-2013.


Montgomery, RJ, Rushmere Noach Inc, Port Elizabeth, 31-1-2013.

Moore, ML, Butler Blackenbergh Nielsen Safodien Inc, Cape Town, 2-11-2012.

Nel, ZP, Steyn Attorneys Inc, Worcester, 4-5-2012.

Olivier, D, Heunis Law Group Inc, Cape Town, 7-12-2012.

Parker, N, Fairbridge Arderne & Lawton Inc, Cape Town, 1-2-2013.

Phalakathsela, M, Mahatang Attorneys Inc, Mthatha, 28-3-2013.

Sandenbergh, R, Sandenbergh Nel Haggard, Cape Town, 4-5-2012.


Van der Lely, S, University of Stellenbosch Legal Aid Clinic, Stellenbosch, 3-8-2012.

Van Schalkwyk, GC, Visagie Vos & Partners, Cape Town, 12-4-2013.

Free State Law Society

NB: The Law Society of the Free State could not supply academic qualifications by the time of publication.

ADMITTED ATTORNEYS

Burger, C, Neuhoff Attorneys, Bloemfontein, 24-1-2013.

Carnaghes, Phatshoane Henney Inc, Bloemfontein, 28-10-2012.

De Jager, CS, Webbers, Bloemfontein, 18-4-2013.


Du Toit, M, Symington & De Kock, Bloemfontein, 2-5-2013.

Esterhuysen, DJT, EG Cooper & Majiedt Inc, Bloemfontein, 18-4-2013.

Ferre, C, McIntyre & Van der Post, Bloemfontein, 13-12-2012.

Gela, NT, Legal Aid South Africa, Botshabelo, 11-4-2013.

Gerber, BS, Giorgi & Gerber, Bloemfontein, 25-4-2013.


Hugo, P, Phatshoane Henney Inc, Bloemfontein, 18-4-2013.


Knowles, ME, Van Lingen & Partners, Welkom, 28-3-2013.


Lombard, ML, Callis Inc, Bloemfontein, 13-12-2012.

Maartens, J, Lovius-Block Attorneys, Bloemfontein, 31-1-2013.


Mazibuko, MS, Moroka Attorneys, Bloemfontein, 17-1-2013.

Mbele, SK, Kroonstad Justice Centre, Kroonstad, 14-3-2013.

Mmelo, DM, Legal Aid South Africa, Bethlehem, 25-4-2013.

Mpiwakane, ER, Van Deventer & Thoabalwa Inc, Bloemfontein, 18-1-2012.

Msewu, LR, Legal Aid South Africa, Witwesheok, 10-4-2013.

Olivier, I, Gerbers Junius Attorneys, Bloemfontein, 13-12-2012.


Ooreily, JRS, Symington & De Kock, Bloemfontein, 7-3-2013.

Pelser, GF, Smit-Lourens & Schoeman, Welkom, 18-4-2013.

Pienaar, JA, Honey & Associates Inc, Bloemfontein, 14-3-2013.

Seekoei, CM, Legal Aid South Africa, Bethlehem, 21-2-2013.

Shavhani, TP, Legal Aid South Africa, Kroonstad, 28-2-2013.

Theron, MC, Goodrick & Franklin, Bloemfontein, 22-11-2012.

Thessner, CA, 18-4-2013.

Tielde, LC, Legal Aid South Africa, Bethlehem, 7-3-2013.

Van Deventer, D, Callis Inc, Bloemfontein, 7-3-2013.

Van Molendork, J, Bredenkamp Attorneys, Bloemfontein, 25-4-2013.

Van Zyl, R, EG Cooper & Majiedt Inc, Bloemfontein, 25-4-2013.


Versfeld, MNN, De Lange & Du Plessis, Bloemfontein, 18-4-2013.

Westelz, L, Botha Hefer Inc, Bloemfontein, 2-5-2013.

Wessels, I, Lovius-Block Attorneys, Bloemfontein, 28-2-2013.

Wessels, M, Phatshoane Henney Inc, Bloemfontein, 7-3-2013.

ADMITTED CONVEYANCERS

Brink, LM, Symington & De Kock, Bloemfontein, 18-4-2013.

Oosthuizen, EH, Symington & De Kock, Bloemfontein, 18-10-2012.


Plenaar, S, Peper Attorneys, Bloemfontein, 15-8-2012.

Scheepers, N, Moroka Attorneys, Bloemfontein, 16-8-2012.

ADMITTED NOTARIES

Brink, LM, Symington & De Kock, Bloemfontein, 18-10-2012.


Sponsored by Shackleton

Correcting details and missing data

Please note that the information in this supplement was obtained from the statutory law societies. If any details are incorrect please notify the relevant law society.
Have you got adequate cover?
Is your lack of FG insurance putting your practice at risk?

Having adequate cover to protect one's business account from staff theft is vital. Although Fidelity Guarantee Insurance is not as popular as Misappropriation of Trust Fund Insurance, the prudent practitioner will take out at least some level of cover. This level is often determined by looking at things like the amount of money held in the business account, the internal controls that a practitioner has in place and the number of staff who have access to the business account.

Our extensive broker network, based throughout South Africa, are waiting for your call. Visit www.shackletonrisk.co.za to find a broker in your area.
Don’t waste any more precious time.
Call the PI Insurance specialists

_Shackleton Risk Management_, a division of the Shackleton Group prides itself on offering tailor-made competitive quotes for its’ Attorney clients. Whatever the cover, whatever the need, Shackleton Risk Management will go the extra mile to ensure that you can rest easy at night knowing that your Professional Indemnity and other legal Insurance needs are in safe hands.

For professional advice, unparalleled service and competitive premiums, please contact

Michael-John Damant  |  011 784 5373  |  michael@srisk.co.za

FSB Number 33621  |  As underwritten by Safire Insurance Company Limited  |  FSB Number 2092