

INSURANCE MAY BE

GREEK TO YOU

IT'S *not to us*

What's special about our D&O coverage?

The Directors & Officers Liability (D&O) policy is probably the most misunderstood policy of a fraternity or sorority's insurance program. Many confuse the policy with General Liability which covers bodily injury, property damage and personal injury claims even if brought against a Director or Officer. A D&O policy protects an organization and its individual officers and directors for a wide variety of possible claims ranging from malfeasance by an officer in his or her fiduciary duty to the organization, third party discrimination and, where applicable, employment issues. The RSUI D&O policy was designed by Holmes Murphy to ensure that the unique exposures of a fraternal organization are addressed. Highlighted below is a number of the enhancements found under the RSUI Fraternity & Sorority D&O Liability policy. This is provided as an overview for illustrate purposes only. We recommend the actual policy should be reviewed as limits, endorsements, limits of liability and sub-limits will vary.

Insured v. Insured Exclusionary Language Carve-Out

D&O policies typically contain exclusionary language that excludes coverage for all claims brought by an insured entity or insured person against another insured entity or insured person. Based on the unique loss exposures of fraternal organization, the Insured v. Insured exclusionary language of the RSUI policy has been modified to ensure coverage is in place when an affiliate entity or member of an affiliate entity brings a claim against the National Fraternity.

Crisis Management

This enhancement provides a sub-limit of **\$100,000** for crisis management expenses. Expenses are defined as the "reasonable and necessary cost of retaining, for a stipulated period of time with the prior approval of the Company, an independent public relations consultant and the cost of associated advertising and public relations media and activities". Coverage is triggered when associated with a "Claim" as defined by the policy.

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Coverage Extension – Fiduciary Liability Sublimit

This enhancement provides coverage up to **\$500,000** for loss arising from a Fiduciary claim.

Breach of Contract

While most D&O policies exclude breach of contract claims, this enhancement provides coverage up to **\$100,000** to defend allegations of a breach of contract. The sub-limit applies only for defense of such a claim and also includes defense cost for the party alleged to have breached the terms of the contract.

Sub-Limit Defense Exclusion – FLSA

This enhancement includes a **\$150,000** defense sub-limit for the cost to defend a claim relating to a violation of the Fair Labor Standards Act (FLSA) or any similar state or local law governing the payment of wages or hours worked. The policy specifically excludes coverage for FLSA and similar claims, but this endorsement provides the sub-limit for the defense of such claims.

Amended Settlement Clause

This clause amends the settlement/hammer clause from 50/50 to **80/20**. This policy enhancement essentially stipulates that if an insured refuses to consent to a settlement acceptable to the claimant which the insurer recommends, the insurance company's liability for all loss relating to the claim will not exceed the amount for which the insurer could have settled the claim plus defense cost incurred as of the date the settlement was proposed in writing by the insurer, plus 80% of the covered loss in excess of the initial proposed settlement amount

HR Loss Prevention Services

This enhancement provides a Help Line, sample HR policies and forms, online training modules focusing on prevention of sexual harassment, discrimination, and wrongful termination. Additional training modules include promoting ethical behavior, a checklist data base for reducing risk, links to important federal and state government sites, and other similar information which can be accessed at www.RSUJextra.com.

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What are D&O Claims?

Real Estate Dispute

Litigation was filed by a house corporation against the Fraternity. The dispute pertained to the ownership and management of the premises. The matter was eventually settled. The settlement reached was for non-monetary damages involving a revision of Fraternity's bylaws which were approved by the Fraternity's Executive Board. The D&O policy provided coverage for defense costs of **\$267,000**.

Employment Dispute

A House Director brought a lawsuit against a Chapter alleging unfair labor practices and standards and significant violations of the Fair Labor Standards Act. The D&O policy provided coverage for defense only. A settlement was reached between the plaintiff and the insured. The D&O policy, after the retention was incurred, paid a total of **\$118,000** in defense costs.

Contractual Dispute

A vendor of a local Chapter was contracted to provide food services and supplies. The Chapter sent an email to the vendor terminating the contract per the terms of the agreement. The vendor hired an attorney and sent a demand for \$70,090 as a result of the breach of contract. The D&O carrier hired counsel to defend the allegations. Based on the evidence, all parties agreed that a breach of contract likely occurred. A settlement was negotiated with the claimant. Given this was a breach of contract claim, coverage was limited to defense only. A total of **\$8,683** was paid by the D&O carrier as a result of the defense costs.

Membership Dispute

A membership review was conducted and 20 members were placed on disciplinary suspension. A member's father authored a letter to the National alleging that the sorority did not follow their own bylaws in suspending his daughter. The claim was ultimately resolved within the retention and closed.

