

NEWS LETTER

n.p. james insurance agency



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Hot Topics

Technology risk - what you can transfer, what you cannot!

In economically troubled times business risks take on increased weight. You need to understand clearly what risk you can transfer - and what risk you cannot.

Client expectations of their insurers have recently led to huge claims in areas never contemplated by insurers. Contract disputes, once strictly in the realm of business risk, have been transported to insurance claims unintended by the carrier. 2003 has seen considerable constriction in coverage terms and language, even while costs are continuing to increase.

Solvency issues raise questions when partnering, when licensing, and when depending on sole sources for parts or services. Capital funding resources scrutinize such issues much more carefully, being sure that business

continuity is as secure as possible. Software code escrow, licensing contracts, and similar arcane matters have grown in complexity as national and international commerce raises new levels of concern.

Write your customer contracts in a way that limits your liability for conse-

quential damages and economic loss. Then, your insurer should be by your side to defend in the event of a claim for damage caused by your hardware, software, service, or people.

This is how you should expect to be covered by your E&O insurer.

Types of Problems	Yes	No
Contract disputes	✓	
• errors in code	✓	
• consequential (financial) damages	✓	
• impaired processing	✓	
• destroyed files	✓	
• delivery delays		✓
• contract performance quality		✓
• problems prior to client sign-off		✓
Buggy hardware/software		
• economic loss to client's relying on your work	✓	
• damage to client's system you cause	✓	
• shut-down economic loss	✓	

Securing the Weak Link in Cyberspace*

Bentley College recently hosted a half-day forum on Internet security issues. Officials from the FTC and the Massachusetts Attorney General's Office joined industry experts to address both problems and solutions to Internet breaches. Excerpts from "The FTC's Internet Security Initiative" fact sheet include:

- Since 2001, the number of reported Internet security breaches has increased over 30 percent.

- Email volume has increased over 25 percent since 2001
- 53 percent of computer users apply the same username and password for all sites accessed
- 25 percent of users write their password down and keep it near their computer
- 50 percent of computer users fail to update virus protection software

It is realistic to assume that we all are a part of an Internet security statistic. Moreover, many of us fall under some regulatory privacy statutes. Remem-

ber, insurers do not defend you for violations of the law!

We need to decide how close our sensitive corporate documents should be to open lines. We need to do that today!

**We thank Bentley College for providing this valuable forum to the Boston business community. Materials provided by the FTC were especially valuable for web sites devoted to Internet security. Many private security consultants generously offered their expertise to the forum. This column has excerpted information provided at the forum.*

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Bits & Bytes ® ***News Items***

- ◆ Maurice “Hank” Greenberg remarked in his address to the Boston financial executives, “Market share in the risk business is a bad idea.”
- ◆ “Drive-by underwriting” is a derisive term used to describe the causal underwriting attitude of the 1990s. Driven by market share (see Hank Greenberg’s quote above) and the promise of considerable investment income, sloppy underwriting has resulted in staggering losses and some insurer insolvencies.
- ◆ Have you been “Enron-ed?” Even while insurers (probably one of yours) are still quarreling over paying Enron’s Directors & Officers liability insurance for shareholder suits, 11 insurers settled surety bond claims of \$570,000,000. If you apply the basic rule of spreading the risk, we’re all paying for Enron!
- ◆ The Terrorism Risk Insurance Act of 2002 was passed into law November 26, 2002, requiring a mandatory offer of terrorism coverage to all commercial insureds. An arcane formula determines how much each insurance company will pay in terrorism claims. Then, our government takes over after the first \$100 billion in U.S. terrorism losses is paid in a calendar year.

Technology Insurance and Risk Specialists ***Hot Topics Issue***

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