

The **Risks**

*Have Never Been Higher*  
Let us help you stay ahead of it



## The Risk of Complacency Are You Sure About Your Insurance Program?

*“I’ve had the same broker for 10 years and never had a problem.”*

*“I trust my broker.”*

Let’s think through how you did your last insurance transaction.

Your broker looks at your business, asks some questions and then produces an insurance proposal, about five pages in length. You go through the proposal in a very high level way – covered for this, covered for that, – and then you agree to the deal. A one or two page binder is issued.

Three months later the insurance policies are delivered and are filed away.

So what’s happened to this point?

You’ve agreed to a contract you’ve never seen. The policies total 500 pages and not only didn’t you read them – they were never even presented to you!!

It’s a little like magic – a five page proposal and a friendly handshake to bind coverage morphs into a giant pile of fine print, conditions, limitations and exclusions at claim time.



**LICATA****RISK**  
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Risk and Insurance Management  
*The Risks have never been higher.*

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### **Your broker knows what's in those policies, though, right?**

NO – that's not his or her job. Your broker does not work for you.

If you had to sue the broker for “errors & omissions” you would find out the hard way, in court.

An event happens that would be a claim under the policy, and NOW everyone is scrambling to read it.

This is the way this industry works; this is the way the process often happens. How can practices like this go on? The reason is simple and logical:

Insurance brokers know what is likely to happen in the short run; they want happy customers and so want these things to be covered. But...there are so many rare, more severe, events that could happen and which might or might not be covered, that there is no way the broker can make sure, or even be aware, that they are covered. Remember, it is not their job.



### **So what would an audit reveal?**

Many, many loss events that are not insured, even though you would want them covered – if you were even aware the question existed.

We have **N-E-V-E-R** done an audit where there were not many uncovered severe exposures, and the client didn't say “I didn't know that.” Why never? Because the system is set up that way. It is not a matter of broker competence – it's just the system.



### **How should it be done?**

Risk management involves full policy review and negotiation as part of the competitive process prior to binding of coverage. As you can see, this is the only way to survive long term in this business world.

Not sure? Let us conduct an audit for you so you'll know.

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#### **Note 1: 2009, New York federal judge in court describing an insurance policy:**

*“... many pages of single spaced, densely worded language..., to which declarations, schedules, riders and exclusions are appended, like ornaments on a Christmas tree, although without their charm.”*

– Southern District of New York, May 2009, Janart v. Greenwich Insurance Co.

#### **Note 2: broker liability in court:**

*“Moreover, like other insurance agents and brokers, the Defendants did not owe East Coast a duty to ensure that it understood the full import or meaning of the terms of the coverage provided.”*

– Baldwin Crane Equipment Corp v. Riley & Rielly Ins, Agency, Inc.,  
44 Mass. App.Ct.29,31-32 (1997).

#### **Note 3: broker disclaimer in proposal**

*“The final decisions are yours. We will procure the coverage chosen by you... You will advise us of any provision not in accordance with your instructions... and any review you may seek from... outside consultants is expected and essential.”*

– Disclaimer in proposal issued by large broker (emphasis added)

Contact us to learn more about how we can help you stay ahead of risk.

