

## **THE INDEPENDENT CLAIMS CONSULTANT / THE PUBLIC ADJUSTER**

The common belief is that as long as you have Insurance, everything is taken care of in the event of a loss. That is not the case. After a property disaster, it is the Policyholder's responsibility to protect the property from further damage, assess the building and content damages, and when necessary, take full inventory. It is also the Policyholder's responsibility to prepare and present a detailed claim to the Insurance Company. The claim can often include Increase in Cost of Working, Reinstatement, Rent Loss, and Business Interruption.

It all begins with the Insurance Policy, and since most people never read their Policy, expectations are often unrealistic. Terms such as Replacement Cost, Reinstatement Value, Market Value etc may be meaningless. For example, most people do not know they can request an interim payment from the Insurance Company when a substantial loss is suffered or that they are entitled to New for Old in certain circumstances or that the Insured may be able to reinstate elsewhere. The problem is often, after a disaster, most Insureds do not have the required skills and depth of knowledge to compile and submit a claim that includes all the benefits provided by the Policy.

### **Using an Independent Claims Consultant / Public Adjuster**

Insurance Companies have Loss Adjusters, Engineers, Forensic Scientists, Claims Managers and Specialist Insurance Attorneys, and a host of other experts at their disposal. While their job is to establish the Insured's loss / claim, as Insurance company employees or agents they are also concerned about protecting their own / principal interests. To this end, they are inclined to want to minimize claim settlements. After all, the Insured represents a loss, and all companies want to reduce their losses. The now retired, Ombudsman for the Short-Term Insurance Industry Mr. Michael Bennett opined that Loss Adjusters were appointed by the Insurer / Underwriter and were paid by the Insurer / Underwriter and thus were agents of the Insurers and there to protect the interests of the Insurer.

The Independent Claims Consultant is there to assist, advise and, guide the Insured after the loss in respect of the Insurance Cover applicable, the reinstatement and rehabilitation of the business, the quantification of the Material and Business Interruption losses and the presentation / negotiations with Insurers and their appointed agents. Insurers will respond to a claim according to the policy wording, but will NOT necessarily inform the claimant of all the benefits that may be available to them. The Insurer's and Loss Adjusters are not able to assist a claimant with analyzing the loss and preparing a comprehensive claim; their role is to consider the claim as submitted.

An Independent Claims Consultant / Public Adjuster assesses the true nature and extent of their client's loss, and of the Insurer's liability, and ensures that the client receives the full entitlement under their policy. Insurance policies are complex contracts that are subject to broad interpretation. The Insurer's Loss Adjuster will interpret a claim in the way that advantages the Insurer. The Claims Consultant / Public Adjuster will prepare a claim, that accounts for all the circumstances and provides maximum advantage to their client within the parameters of the cover effected. Authors Honor and Hickmott, renowned Internationally for their expertise and in particular their text book on Business Interruption

(a book to be found on the desk and in the briefcase of every Loss Adjuster, Claims Manager and B.I. Underwriter), proposes the employment of an Independent Adjuster to assist the Executives / Owners of the Business in its rehabilitation and presentation of the claim.

The experience and skill of Independent Consultants / Public Adjusters is of particular importance in the South African Market Place, where, although there are a number of Loss Adjusters Internationally recognized as experts on Insurance Claim Issues, present in the Industry, as the National President of the Institute of Loss Adjuster admits, there are members of the Loss Adjusting Fraternity who are ill-equipped to deal with complicated and technical claim matters. This situation seems to have come about as a result of a changing claims environment and a lack of or inadequate training. Thus the involvement of an independent consultant is not only to the advantage of the Insured but also the Insurer who may rest assured that their covenant with the Insured is being transformed into reality.

The Independent Claims Consultant / Public Adjuster is an expert in the Insurance claims process, and can save a Client time and money by preparing the claim right the first time. The earlier a claimant engages an Independent Claims Consultant, the more effective they can be. In addition, the Insurance Policy may be extended to include Claims Preparation Costs which extension will include the costs of the Claims Consultant, depending on the Sum Insured. It is respectfully suggested that the Sum Insured in respect of Claims Preparation Costs in respect of those Sections of the Policy which bear the large Sums Insured / Indemnity Limits (usually Fire, Business Interruption, Fidelity Guarantee, Engineering and Liability) not be less than R200 000.00 per section.

The difference between an Independent Claims Consultant and a Public Loss Adjuster lies in the way they raise their fees. The Claims Consultant will, as a rule, charge for services at an hourly rate which will exclude disbursements. The Public Adjuster will work on a "No Cure No Pay" Basis and expect a percentage of the settlement, usually between 10% and 15%.

**A.J.E. FIVAZ / ej**

**for FIVAZ, OGLE & ASSOCIATES (PTY) LTD.**

**SEPTEMBER 2007**