



RISK MANAGEMENT INSIGHTS

by W. Brian Ahern, RPLU

Dissolution of a Law Practice and Insurance

Dissolving a law practice can be difficult on many levels, no matter what the reasons for dissolution may be. Developing a complete checklist of tasks, including timelines and accountability for completion, will help make the dissolution run as smoothly as possible. One of the key areas on that checklist should be ensuring compliance with insurance requirements.

Professional liability coverage is especially important to review because of the exposure related to the professional services that occurred before the dissolution of the firm. Factors to consider include the type of services that have been provided and their respective exposure and statute of limitations as well as the laws associated with the wind-up of LLP's and corporations.

According to the California Corporations Code section 16956, for limited liability partnerships (LLPs), "Upon the dissolution and winding up of the partnership, the partnership shall, with respect to any insurance policy or policies... maintain or obtain an extended reporting period endorsement or equivalent provision in the maximum total aggregate limit of liability required to comply... for a minimum of three years if reasonably available from the insurer."

Firms structured as private corporations should keep in mind that, according to the California Code section 2011 (1) (A) "Causes of action against a dissolved corporation, whether arising before or after the dissolution of the corporation, may be enforced against ... the dissolved corporation, to the extent of its undistributed

assets, including, without limitation, any insurance assets held by the corporation that may be available to satisfy claims" as well as against shareholders to the extent of their share of distributed corporate assets.

Individual partners should be aware of and involved in reviewing insurance coverage as they consider their roles during and following the dissolution of the practice. The California Code section covering LLPs states, "Neither withdrawal by a partner nor the dissolution and winding up of the partnership shall affect the rights or obligations of a partner arising prior to withdrawal or dissolution and winding up, and the guarantee provided for... shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up."

For firms that are private corporations, according to the California Code section 2011 (4) (C), corporations "shall survive and continue to exist indefinitely for the purpose of being sued in any quiet title action. Any judgment rendered in any such action shall bind each and all of its shareholders or other persons having any equity or other interest in such corporation."

Because each firm's situation is unique, it is critical to notify your insurance broker and carrier of your plans for dissolving the practice, and the effective termination dates, as early in the process as possible. In the interim, it is suggested you review the language in your policy with respect to extending reporting periods so you will have a familiarity of what choices you would have in the event of a dissolution.

W. Brian Ahern, RPLU, is President/CEO of Ahern Insurance Brokerage, one of the largest independently owned insurance brokerage firms specializing in the insurance needs of law firms. Ahern Insurance Brokerage is the Endorsed Insurance Broker for the SDCBA.