

Insurance: Points to Ponder

by Ken Roberts



Employment Practices Liability: Volunteers Are People Too!

Ask the vast majority of Executive Directors and Board members of community theatres if they think they need Employment Practices Liability (EPL) coverage, and they will respond with something like, "We don't need that because we don't have any employees." While that may be true to a certain extent, the key to remember for that type of insurance is that it covers *employment practices* rather than employees. Organizations such as ours apply employment practices every day to people who never get paid a cent, and this should be taken into account when considering whether or not to purchase EPL insurance.

There are many common types of claims that would fall under the umbrella of EPL coverage. These include discrimination, invasion of privacy, defamation (libel and slander), sexual harassment and any type of civil rights violation. Upon review,

would we have to be paying someone in order to commit one of the offenses against them? Absolutely not! Our volunteers are no less susceptible to these egregious behaviors than any paid employee, and as such, the coverage is no less vital. Another crucial factor that is often overlooked is defense costs. Even in the event that an organization is not guilty of any of these infractions, they must have legal representation when charges are levied, and that is where valuable theatre funds can be jeopardized. EPL policies will cover the cost of defense.

EPL coverage is available by itself as a "stand-alone" insurance, but where it is typically and more affordably found is accompanying a Directors & Officers Liability policy. Most insurance companies that offer D&O to nonprofit organizations offer EPL automatically. In those cases, the policy will often share one limit of in-

surance to pay claims from, and that is usually the least expensive method. However, organizations that actually do have employees may want to have a separate limit of insurance for their EPL than they have for their D&O, and this too, is not cost prohibitive. This keeps them from depleting the limits for one type of coverage if they experience a claim against the other.

The most important thing to remember when evaluating insurance programs, is that a paycheck does not determine whether or not any individual is vulnerable to inappropriate behavior, nor does it absolve us when that type of behavior occurs. As dependent as we are on our volunteers, we must be no less heedful in treating them as employees, and no less vigilant in protecting our organizations against claims for inappropriate employment practices. After all, volunteers are people too.

For more information about the AACT Insurance Program, contact:

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