



The Chartered Institute of Loss Adjusters

Associateship Examination 2010 (October)

Paper C3

Adjustment of Claims Subsidence

3 ½ Hours

Maximum Marks 200

Answer ALL questions in Part 1 and 2 questions from Part 2
Where appropriate, answers should make reference to relevant case law or statute

PLEASE ENSURE THAT QUESTION NUMBERS ARE ENTERED CLEARLY AND IN FULL ON THE COVER OF YOUR ANSWER BOOK AND IN YOUR ANSWER BOOK



QUESTION 1

You are instructed to deal with a claim submitted to your Principals for fire and malicious damage which has occurred to a farm shop retailing a range of local farm produce from both the Insured's farm and from other similar suppliers in the area. The business premises comprise a detached single storey building of timber construction with a pitched and felted roof supported on a concrete base. Inside the building, there is a basic range of equipment including a shop counter, a cash register, scales, a refrigerator and a freezer.

Your Principals' policy covers both the building and its contents. There is no cover for Business Interruption. The policy was incepted only one month prior to the incident. Your Principals provide you with a copy of the proposal document, which indicates that the business had been operating for several years but there is no apparent history of previous insurance. Your Principals also inform you that shortly after the claim was notified to them they received information from an anonymous source that the farm shop had allegedly been operating without planning permission.

On attending site you establish the majority of the stock and equipment has been damaged, the latter having been attacked with a hammer or similar implements. In addition there has been an attempt to set fire to the counter but this has caused only superficial damage. You learn that the Insured vacated and secured the premises at approximately 5.00 p.m. on the day of incident and at about 8.30 p.m. was contacted by local police officers who informed him there had been a break-in and fire at the premises. When the Insured, who is the sole key holder, arrived at the premises shortly afterwards, he found the front and only entrance door had been forced open.

During your initial discussions with him, the Insured loses no time in making it plain he will be looking for settlement of the claim as a matter of urgency and will not tolerate any delay.

Explain what further information you would seek from the Insured at the time of this initial meeting. State what further enquiries and investigations you would deem appropriate to enable you to submit appropriate recommendations to your Principals. Your answer should include an explanation of the benefits or necessity to obtain the information.

40 MARKS



QUESTION 2

A. In a typical Business Interruption Policy, what do the following terms mean?

- Trend
- Customers Extension
- Loss of Attraction
- Public Utilities Extension

(12 Marks)

B. When dealing with claims for Business Interruption in the following scenarios explain what action you would recommend to mitigate loss of turnover and any savings you might be able to identify:

(i) Fire damage has occurred within the kitchen of a licensed hotel. Various essential items of catering equipment within the kitchen area have been destroyed and smoke has permeated throughout the remainder of the ground floor including the reception and bar areas. It may be necessary to source some of the replacement catering equipment from overseas suppliers and lead times of approximately three months have been quoted. The smoke damage to the remainder of the ground floor is, generally, fairly superficial and has affected decorations, other internal surfaces, furniture and equipment etc within the reception and bar areas.

(6 Marks)

(ii) A firm of Accountants occupy rented offices on the ground floor of a building with multiple tenure. A burst pipe occurs within the roof space of the building and all the office accommodation, including that occupied by the Accountants is extensively waterlogged. In addition to the business interruption element, your Principals' policy covers trade contents but the building owners are liable for any structural repairs. To allow for the necessary drying out procedures it is estimated it will be at least three months before the premises can be occupied again.

(6 Marks)

(iii) Impact damage has occurred to premises rented by a retail newsagent. At the time of your initial visit following the incident you are informed that the Insured will not be able to resume trading until certain emergency and temporary repairs are undertaken by the Landlords. These should be completed within about two weeks. Thereafter, there may be some further disruption whilst permanent repairs are in progress but, at this stage, it is not possible to evaluate the extent of any such further disruption which may occur.

(6 Marks)



- C. You are dealing with a fire loss under a commercial policy which covers property damage and business interruption. The Insured are retail carpet suppliers and they occupy a self contained unit attached to an adjacent much larger unit in separate ownership which is used as a furniture warehouse. The fire originated in the furniture warehouse and both that building and its contents were severely damaged.

In addition to the damage to the Insured's premises there is a business interruption claim. Temporary repairs enable the Insured to trade but there is a continuing loss of turnover.

Explain if any of the following losses would be covered. For the purpose of this exercise you may make whatever assumptions you wish regarding the business interruption cover but you must explain the assumptions you have made.

- (i) Loss of turnover in the week immediately following the fire, during which time the local authority refused permission for the premises to trade whilst the extent of the damage to the warehouse was assessed.
- (ii) Costs incurred by the Insured in an advertising campaign designed to make customers aware that the fire, which received substantial publicity in the local media, had not affected their premises and they continue to trade.
- (iii) Loss of turnover during the period in which the permanent repairs are undertaken. These repairs cannot be undertaken independently of the work on the warehouse. The damage adjacent is so severe the repairs do not begin until more than twelve months from the date of the fire.

(10 Marks)

40 MARKS



QUESTION 3

Having been instructed to deal with a High Net Worth loss, you are about to commence your pre visit enquiries. The loss concerns a theft from a mansion in a locality generally occupied by celebrities including footballers, television personalities and, it is believed, one of the members of a legendary rock band called “Maximum Indemnity” who had a recent hit with “Love is the Proximate Cause”.

- a) Damage has been sustained to the front door, the doorframe and to the decorations surrounding the front door. The damaged decorations are in the hallway and this is part of the large hall, stairs and landing area. Specify the details you would require to ensure that you are able to validate repair estimates provided in support of the building claim.
(15 marks)
- b) The Insurer has stated that there is a security warranty but is unable to furnish you with a copy. You believe the warranty to be strict in terms of requirements. Draft a security warranty that you could expect to be in place.
(15 marks)
- c) Having arrived on the scene you find that the Policyholder uses a pseudonym and is, in fact, a superstar known worldwide. She has recently been involved in adverse publicity allegedly surrounding drug taking and an assault of a night club doorman. Draft a section of your preliminary report concerning moral hazard.
(10 marks)

40 MARKS



PART 2

ANSWER 2 QUESTIONS ONLY

Question SB1

Under a standard delegated authority scheme for subsidence handling, you are instructed to investigate cracking to the conservatory at the rear of a property.

Upon examination you discover that the cracks appear to be old. The insured has owned the property for 4 years and confirms that she has not carried out any repairs nor is there any signs of earlier repair. The conservatory was built less than 1 year prior to the customer purchasing the property.

A well established 20m high oak tree is located approx 10 metres away from the rear conservatory and is located in the garden of a neighbour.

What initial investigations would you wish to undertake given the circumstances and the scale of the problem?

(10 marks)

Detail the typical enquiries you would make, or expect to have been made, to establish the cause of the problem.

(10 marks)

You discover that the foundations of the conservatory are very shallow, barely below ground level, and that the conservatory superstructure is in fact erected upon foundations constructed by the previous owner. What possible exclusions might operate in respect of policy liability, and explain your rationale?

(6 marks)

What, if any, possible routes of recovery exists and comment on whether there is case to pursue the local authority? Quote case law as appropriate.

(8 marks)

What would you do if the customer wrote a letter of complaint wanting to go to the FOS due to delays and challenging the repudiation due to defective design? Explain the steps that are required to comply.

(6 marks)

40 Marks



Question SB2

A large Plane tree owned by a London local authority appears to be causing subsidence damage to your insured's property. There is also a similar species tree in a neighbour's garden but this is further away.

What particularly would you look for in terms of evidence/investigations to assist in mitigation and then ultimately a recovery? Outline 7 elements that you might expect to see in the experts' reports? Please quote details of market agreements which might assist in the process.

(10 marks)

The neighbour's liability insurers respond by indicating that, in their opinion, there is insufficient evidence to implicate the tree which, in any event, was there before the damaged house was built. As a result, you agree to arrange for a detailed site investigation to confirm the cause of damage. Indicate the nature of the further investigation you anticipate to be needed to 'prove the case'.

(5 marks)

As you had expected, the tree expert identifies that the roots discovered beneath the extension originate from Poplar trees. What are the four elements for a successful recovery? Referring to relevant case law, what are the four elements for a successful recovery of your Insurer's eventual outlays?

(5 marks)

Outline what you would include in a letter of claim to the local authority.

(10 marks)

The local authority responds by advising that the tree was there when the property was built and that the foundations of your Insured's building are too shallow.

Advise how you would respond quoting case law as appropriate.

(5 marks)

The Plane tree is confirmed as being a major contributory factor. What options might be available to stabilise your insured's property. Illustrate with simple sketches if possible.

(5 Marks)

40 Marks

Question SB3

You are instructed by Insurers to investigate cracking to a purpose built block of flats. It is three stories high with two flats on each floor. (6 flats in total.) The property is around 12 years old. You are instructed by the Insurers of flats numbered 3 and 4, which are



located on the first floor. The owner of flat number 3 has only owned the lease on the property for 6 weeks and the owner of flat 4 has owned the lease for four years.

The remaining flats have yet to submit a claim.

The owner of flat 4 has obtained a report from an engineer that suggests the site may be suffering from ground heave.

Describe what enquiries you would make.

(8 marks)

Subsequent desktop enquiries reveal the property was apparently constructed on 10m deep piles with ground beams with anti heave provision around the beams.

What investigations and testing would you ask the engineer to implement?

(8 marks)

Explain your 'starting position' as far as policy liability is concerned for flat 3 bearing in mind the ownership of only 6 weeks.

(10 marks)

Assuming liability is not an issue and leaseholder of flat 4 wanted to sell the flat, what would be your advice to the to the leaseholder?

(6 marks)

As part of a supplementary claim there is damage to a car park and retaining wall. The retaining wall which supports the car park is 2.5 m high and appears to have failed, either due to a build up of water behind the wall or due to landslip as the slope is approximately 10 %. Detail the enquiries you would make or expect to see and comment on policy liability quoting case law as appropriate.

(8 marks)

40 Marks