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The Chartered Institute of Loss Adjusters

Advanced Diploma Examination 2018 (April)

Paper AD2

Subsidence

3½ Hours

Maximum Marks 200

Answer Any Five Questions out of Six

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.

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AD2 Subsidence – April 2018



ANSWER ANY 5 QUESTIONS OUT OF 6

QUESTION 1

- a) Outline the main provisions of the Insurance Act 2015 and explain how these may be relevant to the adjustment of an insurance claim.

(20 Marks)

- b) Explain the following terms and how they would apply to the adjustment of an insurance claim:

- i) Reinstatement Memorandum
- ii) Public Authorities Clause
- iii) Escalator Clause
- iv) Contract Price Clause
- v) 10% Co-Insurance Clause

(20 Marks)

40 MARKS

QUESTION 2

- a) Explain the difference between Contribution calculated on an Independent Liability basis and the Sums Insured basis.

(6 Marks)

- b) You have been appointed to deal with a claim for flood damage that has occurred at the Insured's property. Your Principals' Policy covers Contents, with the Buildings being covered separately by different Insurers.

Due to the extent of the damage, the Insured and his family require alternative accommodation. It is agreed with the Adjusters representing the Buildings Insurers that their Principals will initially finance these costs and that your Principals will contribute on the basis of each Insurer's independent liability.

Ultimately, the outlay of the Buildings Insurers is quantified at £10,000. The Sum Insured for such costs under that Policy is £25,000 whilst the Sum Insured under your Principals' Policy is £7,500. Additionally, and on first notification of the claim out of hours, your Principals agreed and paid for emergency hotel accommodation at a cost of £500.

Showing all relevant workings, calculate the Contribution now payable by your Principals.

(10 Marks)



- c) You are dealing with a claim presented to your Principals for the loss of a gentleman's gold watch. This occurred whilst the Insured was on holiday in France. The Policy includes cover for Unspecified Valuables with a Sum Insured of £5,000 and including a Single Article Limit of £1,500.

Your enquiries establish that the claim is in order and, allowing for Supplier's discount, the replacement cost of the watch is validated at £2,000. Accordingly, settlement is concluded at £1,500 on the basis of the Single Article Limit and this amount is paid to the Insured.

The Insured had disclosed a separate Travel Policy that would cover a loss of this type but with a Single Article Limit of £300. Your Principals request you to contact the Travel Insurers to obtain contribution of that amount towards the outlay they have incurred. What advice do you provide to your Principals on this issue?

(10 Marks)

- d) Explain the term "Subrogation" and how this might arise when dealing with an insurance claim.

Briefly discuss how the precedent established in the case of *Mark Rowlands Ltd v Berni Inns Ltd (1986)* impacts upon subrogation.

(8 Marks)

- e) Explain briefly the term "Salvage" within the context of an insurance claim and how this would normally be dealt with.

(6 Marks)

40 MARKS

QUESTION 3

- a) Discuss the circumstances under which it might be appropriate to evaluate a stock loss using the stock reconciliation method and also comment upon any potential disadvantages of using this method of validation. Explain how the loss would be calculated on this basis (figures need not be included).

(12 Marks)

- b) In a typical Business Interruption Policy, explain:

- i) The difference between Increased Costs of Working and Additional Increased Costs of Working. Give one example of each
- ii) The circumstances under which Cover under the Denial of Access Extension would be available



iii) The term “Material Damage Proviso”

iv) Declaration Basis of Cover.

(16 Marks)

- c) You are dealing with a claim for fire damage that occurred at a ladies fashion retailer in January 2018. Your Principals’ Policy covers both material damage and business interruption, with a twelve month indemnity period applying to the latter. Due to the damage that has occurred, it is estimated that the shop will be closed for about two months whilst building repairs are completed.

Your enquiries have established that the Sums Insured against the various heads of cover, including business interruption, are all adequate apart from stock, the Value at Risk being confirmed at £100,000 against a Sum Insured of £75,000. You explain to the shop owner the application of average and that effectively she will receive only 75% of the stock claim, initially estimated at £50,000. The position is accepted but the Insured then raises the following issues:

Due to the shortfall in the stock claim, she will not be able to acquire her normal range of stock for the forthcoming summer sales period and this will impact adversely on her turnover during this time.

In addition, and due to the closure of the shop in the aftermath of the fire, she will be left with some undamaged seasonal stock which she may subsequently only be able to sell at a significantly reduced price.

She expects that any losses arising from these issues will be reimbursed within the scope of the Business Interruption Claim. What advice do you provide to her?

(12 Marks)

40 MARKS



QUESTION S1

You are appointed to deal with a claim for a domestic homeowner. The property is a detached house constructed in the late 1960s.

A large oak tree owned by a London local authority appears to be causing subsidence damage to your Insured's property. There is also an oak tree in a neighbour's garden but this is farther away.

Subsidence Wording

Subsidence or heave of the site on which your home stands, or landslip

This includes cover for:

- *solid floor slabs, but only if your home's foundations are damaged at the same time and by the same cause*
- *outdoor swimming pools, tennis courts, patios, terraces, service tanks, drains, septic tanks, pipes and cables, central heating fuel storage tanks, drives, footpaths, garden walls, hedges, gates or fences - but only if your home is damaged at the same time and by the same cause.*

We don't cover damage from:

- *normal bedding down of new structures or shrinkage*
- *settling of newly made up ground*
- *coastal or river erosion*
- *demolition or structural repairs or alterations to your buildings.*

- a) What particularly would you look for in terms of evidence/investigations to assist in mitigation and then ultimately a recovery? Outline the elements that you might expect to see in the expert's report.

Please quote details of market agreements that might assist in the process.

(10 Marks)

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

(5 Marks)



- c) As you had expected, the tree expert identifies that the roots discovered beneath the house originate from oak trees. Referring to relevant case law, what are the elements for a successful recovery of your Insurer's eventual outlays?
(5 Marks)
- d) Outline what you would include in a letter of claim to the local authority.
(10 Marks)
- e) 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)
- f) The oak 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 S2

You are instructed by Insurers to investigate cracking to a purpose-built block of flats. It is three storeys high with two flats on each floor. The property is around four years old and is constructed on a hillside development. You are instructed by the Insurers of flats 3 and 4, which are located on the first floor. The owner of flat 3 has only owned the lease on the property for six 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 which suggests the site may be suffering from landslip.

Subsidence Wording

Subsidence or heave of any part of the site on which the Block of Flats or Private Dwelling House stands or landslip but not:

- *Damage to outdoor swimming pools tennis courts paved terraces walls gates fences patios paths and drives unless the main building of the Block of Flats or Private Dwelling House is damaged at the same time by the same cause*
- *Damage caused within ten years of construction by*
 - i) the normal settlement or bedding down of new structures*
 - ii) the settlement of made up ground or of materials brought to the site*
- *Damage caused by*
 - i) coastal or river erosion*
 - ii) defective design or workmanship or the use of defective materials*
- *Damage to solid floor slabs or Damage resulting from their movement unless the foundations beneath the outside walls of the main building of the Block of Flats or Private Dwelling House are damaged at the same time by the same cause*
- *Damage resulting from*
 - i) demolition construction structural alteration or repair of any property or*
 - ii) groundworks or excavation at the Block of Flats or Private Dwelling House*

a) Describe what initial enquiries you would make.

(8 Marks)

b) Subsequent desktop enquiries reveal the property is constructed on 11 m deep piles with ground beams with anti-heave provision around the beams.

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

(8 Marks)



- c) What is likely to be the 'starting position' as far as policy liability is concerned for flat 3, which has been owned for only 6 weeks?

(10 Marks)

- d) What are the likely options for settling claims of this nature? Include details of any repair options that may be appropriate.

(7 Marks)

- e) What avenues should be considered for a recovery action and who are the key parties that might be considered? Indicate the pros and cons of any such subrogation action.

(7 Marks)

40 MARKS



QUESTION S3

You are instructed to deal with what appears to be subsidence damage to a terrace of four houses that were built in the 1970s. The construction is typical block brick cavity walls under a tiled roof, with traditional strip footings and a ground bearing ground floor slab. You are instructed by the Insurer of the end house. Two of the other three houses have different Loss Adjusters/Insurers. The other end property is uninsured.

In the course of your initial enquiries, you discover that the rear wall of the houses was previously underpinned in around 2008. This consisted of traditional underpinning to around 1.5 to 2 m deep. There is now significant damage to the whole front wall of the terrace plus damage to internal walls.

There are oak trees located in a nearby school playing field at the rear and these are apparently subject to a Tree Preservation Order.

The current owner has occupied the property since 2001 and the insurance is arranged through a mortgage block policy.

The current damage initially reappeared in early 2015.

Subsidence Wording

*The first £1,000 (unless a different subsidence **excess** is shown in your **schedule**).*

- *Damage caused by coastal or river erosion.*
- *Damage to garden walls, gates, fences, paths, drives, patios, swimming pools, tennis courts, lamp posts, septic tanks and central heating tanks unless the foundations beneath the external walls of **your home** are damaged at the same time, by the same cause.*
- *Damage to, or resulting from, the movement of solid floor slabs unless the foundations beneath the external walls of **your home** are damaged at the same time, by the same cause.*
- *Damage caused by demolition, structural alteration or structural repair, excavation, faulty design or faulty workmanship or the use of defective materials.*
- *Damage resulting from the bedding down of new buildings or settlement, shrinkage or expansion.*
- *Damage that is covered under an NHBC Certificate or other similar guarantee.*

***Home** - The private dwelling shown in your **schedule**, together with its garages, outbuildings, sheds and greenhouses, all owned or used by **you** for private and domestic purposes.*

- a) Outline the main headings you would include on an ABI preliminary report format including, in bullet point form, the main points you would raise under each section.

(18 Marks)

Please turn over



- b) What recommendations would you make for site investigations and monitoring?
(8 Marks)
- c) Outline the options for settling the claims, including all types of repair solutions, and how you would establish the cost and establish reserves for the various options. Also outline how your options might be considered and work in conjunction with the other properties in the terrace.
(8 Marks)
- d) One of the residents disputes the proposed repair option. The customer will not accept the decision that you have made and wants to refer the matter to the Financial Ombudsman Service. Outline what steps are necessary before this will occur.
(6 Marks)

40 MARKS