Poole Professional Companies

Bending the Rules: Large/Long-Time Clients

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Anyone who's ever let a favorite niece or nephew sneak an extra slice of birthday cake knows what it's like to play favorites. But when design firms set aside principles of good management or relax their normally stringent contract requirements for the sake of a favorite client, such actions can backfire in a variety of unfortunate ways.

In this case, the insured was retained by a long-time client to render an opinion on structural issues prior to acquisition of a large commercial office building. After drafting a report that pointed out certain structural issues that might have interfered with the client obtaining the required financing, the design firm was urged by this client to downplay those issues in the final report. The design firm acquiesced and crafted a report minimizing the structural issues of the building in question. While the final report may have been to the client's liking, the firm later regretted making such a misstep.

The client claimed that had they known the true condition of the building, they would not have purchased the building and/or entered into the financial arrangements with the lending institution. The design professional was now on the hook for their inaccurate report, and the claim was settled for more than half a million dollars.

It's easy to understand why a firm would go to almost any lengths to satisfy a long-time client or reel in a big new one. A prolific client that can provide a firm with a steady stream of revenue is a rare commodity. But every firm needs to recognize that its dependence on one or two clients for a majority of the firm's work can have serious downside as well.

According to claims professionals, there are several ways in which a firm's dependence on a “cash cow” can come back to haunt it. The chief issue is relaxing risk management and applying different contract requirements to large, or repeat clients. When negotiating a contract, design professionals must apply the same procedures in regards to indemnity, dispute resolution, payment terms and more, no matter the past relationship with a client.

A firm's reliance on a dominant client can also put the firm's insurance carrier at a disadvantage during a claim defense. A design firm, frightened of losing a primary revenue stream, may be reluctant to fully cooperate with the insurance carrier. Firms will even go to such lengths as to admit wrongdoing, when they know confidently that they have made no errors or omissions.

One way to maintain a strong relationship without surrendering control is to include language in your contract that states your obligation to cooperate with your insurance carrier during a dispute resolution process. As always, your account representative would be happy to help you review your standard contract and insert this language.

As is so often the case, a rigorous client selection process is one of the best ways to prevent claims. After all, if you find yourself depending on one or two clients for a majority of your revenue, you'll want to know that you did your due diligence before choosing to work with them.