

# Asset Management E&O Loss Scenarios



## Asset Management E&O

### **Description of Event:**

As they approached retirement, a couple who were long-standing clients of our Insured investment adviser decided to move the funds they held in registered accounts to unregistered RIF accounts and to increase their equity exposure.

After the market dip in 2008, the client's power of attorney liquidated the clients' investments and then, on their behalf, sued the investment adviser claiming damages of over \$1 million. The power of attorney alleged that the husband was suffering from Alzheimer's disease at the time the changes in investment strategy were made, and that the investment adviser was aware of his illness.

The Insured investment adviser maintained that they were unaware of the Alzheimer's diagnosis, and that the husband showed no signs of impairment during meetings.

Chubb supported the Insured's decision to take the matter to trial, which was scheduled to last 28 days. After 6 years of litigation, and over \$1 million spent in defence costs, the matter was settled on the eve of trial for \$300,000.

## Asset Management E&O

### **Description of Event:**

Our Insured, an asset management firm, was sued by an elderly client who alleged that her investment adviser failed to appropriately update her risk tolerances over time. The client alleged that she was invested in unsuitable risks which resulted in her suffering losses of \$600,000.

Following the investment advisers departure from the firm, IIROC investigated the conduct of the adviser in question. A settlement between IIROC and the investment adviser was eventually reached. Given the possibility that the new IIROC findings could be used to demonstrate the firm's vicarious liability, Chubb worked together with the Insured to push for an early settlement of the client's case. The efforts were successful, and the litigation was settled for a quarter of the amount claimed (\$150,000) with Chubb providing coverage for the defence costs and settlement payment.

## Private Equity Scenario

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### Description of Event:

Our Insured, a private equity firm, made a 20% equity investment in a privately held company. The founder of the company was terminated, and he thereafter advanced an oppression remedy claim. He alleged that the private equity firm and its partners excluded him from managing the company and accordingly was a victim of oppressive conduct when terminated. He sought \$5 Million in damages representing the redemption values of his shares at the time of termination. Later, the founder's brother (a former controller and minority shareholder) also launched his own oppression claim. Chubb worked with the Insured to defend and settle the claims. Both matters ultimately settled for \$275,000 of which only \$30,000 was indemnity for damages and the rest was defence costs.

## Venture Capital

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### Description of Event:

Our Insured, a startup venture capital firm, was comprised of several partners who had recently left their previous venture capital firm. The partners of the previous firm filed a lawsuit alleging that the new firm, and its partners, breached their contracts and fiduciary duties by secretly founding the new firm. They further alleged that the former partners used confidential information in order to make equity investments in the same portfolio companies. Chubb worked with the Insured to defend the claim, and tendered its full policy limits of \$1.0M.

## Asset Manager - Trade Error Reimbursement

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### Description of Event:

Our Insured, a private fund investment manager, committed a trade error resulting in a \$600,000 loss to its clients. The Insured provided an order to sell two types of liquid securities. In this case, the broker and custodian were two unrelated firms. The Insured was to deliver the trade files to the custodian in advance of the trade, but unfortunately the documents were sent to the wrong entity in error. The trade documents were eventually sent to the custodian but beyond the deadline to settle the trade on time. As a result of the Insured's error, the broker acquired the securities late and sent a reimbursement invoice for the Insured to pay. Within days our Insured submitted a claim under their Cost of Corrections coverage, and Chubb accordingly provided coverage for the full amount of the loss.

## Asset Management

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### Description of Event:

The Insured, a boutique investment firm, notified Chubb that it had discovered a trading error in which their administrative department had inadvertently failed to input the correct currency hedging trade, resulting in a \$200,000 loss to their client's portfolio. The examiner reviewed the chain of events with the Insured and confirmed the negligence and quantum at issue. Under the Cost of Corrections coverage, Chubb paid the loss, less the deductible, within 20 days of receipt of the claim.

The Insured wrote a letter to the examiner, thanking her for her claims handling and stating the following: "I just wanted to send you a quick note to thank you for your guidance through our

first (and hopefully last) policy claim. You helped make this process easy to navigate with your professionalism and experience. I and the rest of the team look forward to a long, prosperous and adequately Insured relationship with Chubb."

## Employment Practices Liability

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### Description of Event:

Our Insured, an independent investment firm, hired a new Senior Executive Officer for their European operations. Upon hiring, despite the title, he allegedly was never considered a manager, was not provided with employees to manage, and was not provided with any financial authority. The Executive alleged that he had been constructively dismissed and claimed legal indemnities, moral damages, and compensatory damages equivalent to 18 months of salary. Chubb worked together with the Insured and defence counsel to successfully resolve the claim via early-stage settlement. Net of retention Chubb contributed \$28,000 to defence costs, and \$86,000 to the settlement; a total contribution of \$114,000.

## Claims Service Testimonial

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Our Insured, a private investment management firm, was subject to a regulatory investigation. Through proficient communication, Chubb assisted in coordinating the efforts of all parties and provided coverage that effectively supported our Insured in their time of need. Our Insured provided the following thoughts on their experience: "Chubb truly supported us on a complex claim. Chubb's team demonstrated flexibility in their approach to handling the claim and our insurance delivered value"

# Chubb. Insured.<sup>SM</sup>