



Claim Case Studies & Legislation: Protect Your Personal Wealth with a D&O Policy

Bankruptcy

Situation: A not-for-profit daycare takes on a significant amount of bank debt in order to fund a costly, but necessary, expansion of their facility. The daycare's directors understand the risk involved, but have budgeted for the costs based on revenue from customers and a large annual grant from the provincial government.

Without warning, the government cuts off funding to the facility based upon cutbacks imposed in a recently passed budget. With the loss of this funding and unable to increase their fees, the daycare is closed and the facility declares bankruptcy. The executive director and 10 employees all lose their jobs.

Employees: Directors are personally liable for the any unpaid wages and/or vacation pay. Depending on the situation, these amounts can be substantial.

Remittances

Government: To conserve cash, the entity has fallen behind in their employee CPP and Income Tax remittances.

The directors are personally liable to the respective government entities for these amounts.

Employment

Situation: A female employee in a senior management role for a not-for-profit agency fails to meet the job performance

expectations of her male executive director. After several warnings and a negative performance review, the senior manager is terminated with cause. The employee feels the termination was unfair and hires an employment lawyer. In addition, she files a complaint with the provincial Human Rights Commission claiming discrimination based upon her gender.

Employee: The employee sues for wrongful dismissal and damage to her reputation. The employer is compelled to hire a defence attorney to plead their case.

Government: The Human Rights Commission initiates an inquiry into her allegations of gender discrimination. The organization hires a second lawyer to represent them at the inquiry, incurring further legal costs.

Donation/Donor

Situation: A wealthy individual donates \$1,000,000 to a charity, with the specific condition that the donation is intended to help expand their facilities. The Board of Directors decides to redirect some of these funds to general maintenance of the existing facility. The donor finds out about this redirection of funds and is furious.

Donor: The donor commences a legal action alleging "breach of fiduciary duty" and misuse of funds by the directors and requests a return of the funds. The costs for defense are substantial.

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