Lloyd's London Fraternity Program

RISK MANAGEMENT BULLETIN

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HIRED & NON-OWNED AUTO EXPOSURES

JULY 2012 – AURORA, COLORADO

The first step in the Risk Management Process is Identification of Exposures. Every fraternity and sorority has significant claims exposure to losses that may arise from the use of Hired or Non-Owned Autos. Exposures exist whenever an auto is used "on the business" of the fraternity at any level.

Hired & Non-Owned Auto Exposures include:
1) Undergraduates transporting people to or from fraternity activities
2) Designated Driver, Sober Driver, or Safe Ride programs
3) National Board Members, Staff or Volunteers using their auto on fraternity business
4) Rental of vans or other specialty vehicles (i.e. R.V.'s) to provide group transportation.

The second step in the Risk Management process, Analysis, shows that in the area of Hired & Non-Owned auto both the financial and human element exposures are very significant. **The Surgeon General's 2007 report on prevention and reduction of underage drinking** highlights the more than significant human element Hired & Non-Owned auto exposures as follows:

- ***80% of college students drink***
- ***40% engage in Binge Drinking*** *that is greatest between the ages of 18 to 21*
- ***Alcohol*** *is the leading contributor to death or injuries for people under 21*
- ***1,700 of the 5,000 annual alcohol deaths*** *for those under 21 are college students (34%)*
- *Motor Vehicle crashes are the cause of about* ***650 college student deaths annually***
- ***45% of vehicle deaths*** *are to persons other than the drunk driver*

Claims Analysis: *Hired & Non-Owned Auto Losses*

1990 to 2010 .... **100 claims identified**

27 claims produced losses of: **$25,835,167**
Average loss: **$965,858**

We conservatively estimate that between 1990 and 2010, the **Total Losses from All Fraternity Hired & Non-Owned Auto Claims exceeds $40 Million** or an **Average Annual Cost of $2 Million.**

While not alone, almost without exception **underage drinking** is identified as the single largest contributor to Hired & Non-Owned auto claims.

Other significant claim factors include:

1) The driver of the vehicle was **inexperienced** and **unfamiliar** with the operation of the vehicle (especially apparent in claims involving Vans or R.V. type vehicles)
2) Driver fatigue is significant in cases of longer travel distances
3) Even if the driver is sober, **vehicle overcrowding** and **distractions** caused by the passengers increase exposures
4) Almost without exception, **the driver's or vehicle owner's insurance limits** were quickly **exhausted**. While it is certainly unfair, the courts frequently make the sponsoring organization and their insurer the insurance company of last resort when the insurance of the vehicle operator or owner are inadequate to pay the entire amount of injury and damages that arose from the accident.

" An Alcohol on Campus report states that on an annual basis more than ***2.1 million college students*** *are cited for drunk driving on an annual basis. "*

Cost Analysis: *Hired & Non-Owned Auto Losses*

To operate profitability insurance companies seek to have an **overall Loss Ratio** (Premiums Paid vs. Claims Paid Out) of between **50%-60%.**

Example:

Thus an insurance company would seek to recover the cost of a $1,000,000 claim by collecting future premiums in the area of $1,666,000 to $2,000,000.

For a 3,000 Member Fraternity this represents:

Cost Per Member: .... **$555 to $666 Annually**

Even if future premium cost is amortized over three policy years:

Cost Per Member: .... **$185 to $222 Annually**

This actually understates the cost impact because if the fraternity carries **excess liability insurance** that cost will also **increase proportionately** as the cost of the basic or primary coverage increases.

Risk Management Recommendations

James R. Favor & Company offers the following risk management recommendations to assist you in reducing your exposure and the adverse financial impact of Hired & Non-Owned Auto claims:

Increase the **Educational Programming** to your chapters about the serious responsibilities and claims potential that Hired & Non-Owned Auto exposures present. **Your programming should stress the following areas:**

1) Even if they are using their car "on the business" of the fraternity, the **member's personal auto insurance is primary.**
2) The fraternity's insurance **does not provide** the members with any protection for any claims that arise from the use of their auto.
3) State Financial Responsibility Laws **do not limit** the member's liability.
4) Auto liability judgments against them are usually not dischargeable in bankruptcy and could adversely personally impact them financially for many years.
5) Advise them to **secure auto insurance coverage for Liability, Uninsured and Underinsured Motorists coverage of at least $300,000**. (Increased limits of coverage are relatively inexpensive when compared to the personal liability for inadequate insurance).
6) The importance of only undertaking driving responsibilities in a responsible and safe manner.

Establish as part of your organization's Risk Management Policy a "Public Transportation Only" policy. The public transportation only policy should state that public transportation (i.e. busses, cabs, limo services) must be used when transportation is necessary for fraternity events or activities and that the use of leased or rented vehicles operated by members to provide transportation is prohibited.

Prohibit the use of or participation in any "Safe Driver", "Sober Driver", or "Designated Driver" programs. While these are certainly well intended as loss controls they are not being properly executed and thus resulting in significant claims that are difficult to defend.

Require that if the continuation of any such "Safe Driver", "Sober Driver", or "Designated Driver" activity is to be continued that the following additional Loss Control measures be implemented via a written designated driver agreement.

a. Potential drivers should be advised that the use of their personal vehicle in connection with fraternity activities is strictly voluntary and that any claims that may arise are the sole responsibility of the vehicle owner or operator.
b. Potential drivers should be advised that the fraternity does not assume any liability for claims or injuries to persons or damage to property or damage to vehicles arising from the use of their personal vehicles in connection with fraternity activities.
c. Potential drivers should agree that they will consume no alcohol from at least 12 hours prior to providing transportation services until their driving services for a fraternity activity or event are fully completed.
d. Potential drivers should be the older more experienced (minimum age 20) drivers rather than the younger members of the chapter.
e. Potential drivers should agree and provide written proof that they have personal automobile insurance with a Minimum of $300,000 of insurance coverage for Liability Uninsured and Underinsured Motorists claims.

The Favor Advantage Corner

Final Thoughts…

"To further mitigate the potential impact of a large Hired & Non-Owned Auto claim adversely impacting your national insurance program's overall claim experience, ***reduce the limit of the Hired & Non-Owned Auto insurance coverage available to Chapters to $100,000."***

- Jim Favor, President