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Countering the Forces of Nature

Whilst most of us in Europe are still winding wool around our necks, Thomas Nashe's words "Spring, the sweet spring, is the year's pleasant king..." seemed far out of season as most of us in Europe were still wrapping wool around our necks over the past quarter. Further afield in the Caribbean we also are transitioning into the hurricane season and other NATCAT risks which shall become ever present in the coming months. In this quarter's main article 'Commerce and Catastrophe in Christchurch', David Price delves into this topic, underlining the implication of the Wide Area Damage concept in BI cases which arose in New Zealand

following the earthquakes of 2010-11. He highlights the key points to consider when assessing the impact of natural disasters on affected businesses.

Our Environmental Risks expert, David Waller, also provides us with a perceptive article using two case studies regarding flood waters and land contamination to demonstrate the importance of applying technical expertise and providing an immediate response to mitigate losses and recovery costs.

We have continued to expand our team globally, recently

welcoming Jeff Ashman to our London office complementing and further enriching our technical portfolio.

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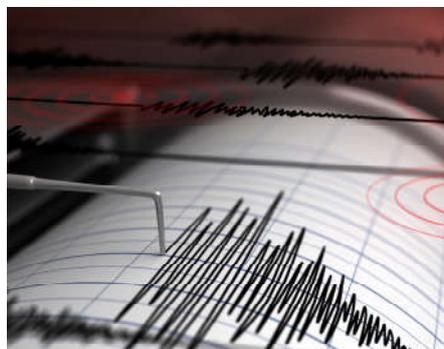
David McGhie
Director

Commerce & Catastrophe in Christchurch

Following the September 2010 earthquakes and aftershocks in New Zealand, it was immediately apparent upon arrival that we were dealing with a unique catastrophe in terms of the damage that had occurred. The subsequent earthquake in 2011 also had a calamitous effect on numerous commercial buildings, factories and private property within the central business district and the surrounding suburbs. There was a lack of local resources to deal with every aspect of the claims scenarios, the multitude of technical matters and various issues in regards to the policyholder's and their advocate's expectations.

The Wide Area Damage concept, which refers to the various challenges to business recovery that escalate the business loss which otherwise would have occurred, including; prevention of access, damage to suppliers/client base, loss of critical utilities (e.g. electricity) was particularly relevant in dealing with these BI claims as many of the claims presentations sought to exploit this principle to increase trends when evaluating the anticipated turnover within the indemnity period. Many companies with BI cover had been unable to re-commence trading and the reinstatement of any damaged property within the maximum indemnity period available (normally limited to 12 months). Those businesses that were able to resume trading often found themselves in a position of enhanced trading due to the absence of any meaningful competition. Several companies recruited claims preparation specialists to present and negotiate claims on their behalf, specific cover for such costs was normally available as part of the BI Policy and the maximum cover afforded was regularly exhausted.

I dealt with a particular claim for a retailer who had multiple sites throughout seriously affected areas of Christchurch, surprisingly many of their buildings had escaped relatively undamaged except for two sites that required significant repairs and a period of closure. In marked contrast, their



principal competitors had all suffered significant damage at multiple sites and substantial interruption before they were able to re-establish effective alternative and permanent trading positions.

In presenting the claim and calculating the anticipated turnovers for each location, the appointed claims preparer indicated a minimum trend within the indemnity period of 35%. This had been calculated by considering the policyholder's own marketing statistics primarily which also specified a detailed analysis of their historic market share. The data had been extrapolated to account for the fact that many of their competitors were not able to trade effectively in the post-loss period and that consequently the Insured would have enjoyed an enhanced market share.

However, in reviewing the claim, it was necessary to consider what the value of the market in the specific trade sector would have been in Christchurch within the indemnity period. Account also had to be taken of the change in the demand for certain products and the alteration in shopping habits as there was a perception that the suburban shopping malls that remained open were safer retail destinations. Conversely, there had been a

migration of people out of the area due to the fear generated by continuing aftershocks, decreasing demand. All presented claims had to be considered against this backdrop and required a detailed interpretation of the historic and current trading figures and analysis of the trade statistics generated by government agencies. It was also necessary to research the post loss activity of competitors, both historic and current, to fully understand the implications on the likely post-loss trading position.

To resolve this claim, analysis of the historic market shares and total market value allowed an extrapolation of the figures to reflect the potential market shares and values in the post loss period at each of the Insured's locations. For many of the locations it was successfully demonstrated that any advantage in their competitors being unable to trade had been fully realised in the post loss trading figures and that the applied trend provided an exaggerated statement of the potential post loss trading position. The claim was successfully adjusted on this basis with minor figures agreed for the actual closure periods and due account of deferred sales. Adjustment of the losses for the locations that suffered significant damage were agreed individually after accounting for the significant transference of sales to the Insured's other Christchurch locations.

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Curbing the Costs of Contamination



The arena of environmental insurance claims can present many challenging and dynamic scenarios where environmental damage and financial liabilities quickly propagate in the immediate aftermath of a crisis. Environmental claims range from fuel spills to polluted flood waters, encompass issues with the disposal of a demolition waste and major fire incidents involving the spread of noxious smoke or asbestos contamination.

Environmental incidents may be covered in whole or in part, under first party material damage wordings, traditional Public Liability wordings or specialist environmental impairment liability (EIL) covers. Adjusters should be aware of a number of key issues when instructed on a pollution related incident as often causation is in doubt, identifying whether liability arises under civil or statute law requires urgent clarification, policy cover issues can be complex and evidence for potential recoveries needs to be secured. Significant pressures can also be exerted on the policyholder in relation to potential reputational damage and/or prosecutions under environmental criminal law that can include unlimited fines or imprisonment for Directors and Officers.

To mitigate costs, early and appropriate emergency response (such as the containment of spreading oil) must commence swiftly and given the premium rates charged by emergency responders for such work, it is important to close

the emergency phase at the earliest. Liabilities from pollution events may not readily be apparent, such as in fuel spill cases where oil has soaked into soils on adjacent lands and migrates downwards reaching groundwater aquifers from which a potable water is abstracted. This could result in several millions pounds of costs, with all local resident's home plumbing becoming contaminated and a permanent loss of access to potable water from that source.

Our Environmental Risks division has extensive experience in a range environmental incidents and supports clients and colleagues globally both remotely or by travelling to provide on-site support as needed. We also collaborate with selected partners including specialist environmental consultants and emergency responders to offer a comprehensive and cost effective environmental risks service. We believe it is imperative to undertake a prompt investigation of liability and policy cover matters, assess what risks exist and act accordingly applying our technical expertise to ensure that realistic clean up targets are agreed. Regulators are engaged as need be and evidence on recoveries is secured.

We had been involved in a case involving the flooding of a large office block's basement with water that was assumed to be contaminated. Initially, it had been estimated that removing the water using road tankers would take

approximately 8 weeks and cost at least £750,000, not including BI and worsening of property damage caused by delayed drying. By introducing the correct expertise, we engaged with the Governmental Regulator and proved that the level of contamination in the flood water was negligible. Upon receipt of the Regulator's permission, subject to sampling and ongoing monitoring, we pumped the water using specialist equipment out to the river from where it originated. This approach cost less than £30,000 and was completed in under 2 weeks resulting in savings in excess of £1million.

Similarly, in another case we applied our environmental claims handling expertise and reduced project costs by at least £650,000. The incident involved 8,000 tonnes of material which had been brought onto land that was unlawfully occupied by members of a travelling community, supposedly as flood defence from an adjacent river. The land owner was required by the Regulator to remove this material which reportedly also included hazardous material, namely asbestos. Waste disposal contractors who were trusted by the policyholder had quoted approximately £900,000 for waste removal.

Upon instruction, we arranged for robust sampling and mapping of waste that confirmed the majority of the material was not in fact hazardous waste as the policyholder's contractors had initially suggested. Waste brokers were therefore engaged to tender out the removal and costs were reduced to approximately £250,000. This highlights the added value of applying our thorough environmental risks expertise to each claim, undertaking a detailed investigation and taking action swiftly to mitigate delays, risks and costs.

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David Waller
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Group News

The last quarter has been very eventful with numerous activities and developments throughout our network. Our **Cocktail Party** was held on the 30 March 2017 at the Andaz in London and was very successful, bringing our clients, industry peers, overseas directors and associates together under one roof. Our Miami Office's Business Cocktail also took place on the 16 May 2017 to coincide with the Miami | Latin America Claims (re) Insurance Forum that week.

In line with our commitment to continuous **development** and knowledge sharing we hosted a **technical seminar** in March for our London team, associates and overseas directors, which covered a range of topics including DSU Claims, Environmental Risks and Building Collapses. We

also invited our guest speaker, Mr Chuon-Szen Ong of BPP-Tech who gave an insightful presentation on Offshore losses.

We have expanded our London team further, welcoming Jeff Ashman, an experienced Chartered Electrical Engineer with a wide range of experience in **risk surveys**, energy losses, machinery breakdown, CAR/EAR, fire losses, BI claims and professional indemnity. We are pleased to have Jeffrey at Advanta further developing our technical capabilities and portfolio.

Furthermore, as part of our growth plan we are **expanding** our international network and are pleased to announce our recent association with Engle Martin in the USA. Engle

Martin has expansive coverage in the USA with 65 offices throughout the country and a team of leading loss adjusters.

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