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LOSS PAYEE ON CARGO POLICIES

Recently, two members have had parties with a relationship asking to be a “loss payee” on a cargo policy. One of the problems insurance providers have is that insureds have customers or other parties asking for proof of insurance coverage or other coverage concerns that do not understand insurance. Too often the insured might lose business because of the inability or unwillingness of the insurance provider to comply with the request(s).

Many times the insurance providers react by saying: “we cannot do that” without understanding the coverage provided and what the coverage implications on the coverage from that the request of the customer/other parties ask our insured for the proof are. We must remember that the COI only comes into a claim when there is no coverage. As long as there is coverage, the COI does not become involved beyond allowing the insured to do business.

The request to be added as a “loss payee” is an example. The loss payee status requires the insurer to include the name of the loss payee on any payment for damage to covered property by a covered cause of loss. To be added on the payment, the loss payee must have an insurance interest in the damaged property. The loss payee provision is normally added to a “property” policy to protect others than the owner or the insured when covered property is damaged. This would typically be the entity that furnishes money to the insured and retains an interest in property to secure the “loan”. The other consideration would be when the insured leases/rents the items/property to use as a part of their business and as part of the arrangement, the insured has to provide insurance.

Property policies are defined as first party coverage to address damage to covered property by a covered cause of loss. When the property is damaged the payment is made to the insured or the loss payee. There could be others who have an insurance interest, but the policy reacts to damage to the property by a covered cause of loss and includes in the payment/settlement of the claim people who have an insurance interest. First party policies of a motor carrier would be the policies addressing coverage for their owned or leased building, contents,

business/personal property, and equipment including their rolling equipment (power units and trailers).

The Commercial Package Policy including Building and Business Personal Property (CPP), Businessowners Policies (BOP) and Monoline policies address these items. Inland Marine covers computers, forklifts, loaders, and tools. The Auto policies address the physical damage to "covered autos".

CARGO policies are third party policies and provide payment to parties that have been damaged by the insured's negligence to entities/people who have been injured or whose property had been damaged. There are two considerations for the cargo policy to respond. First the insured must be legally liable, and second the damages must be caused by a covered cause of loss. The policy will then respond to "cargo" that the insured is legally liable for when damaged by a covered cause of loss and the cargo or cause of loss is not excluded or limited.

With this set out, let's look at a cargo claim. Assume there is coverage and there is a payment to be made. Who will the check/settlement be made payable to? The owner of the property or others who could have an insurance interest in the damaged property? - Right? The customer of the motor carrier is "listed" as a loss payee on a COI, so the insured/motor carrier can haul for the customer and there is a loss to the customer's owned property, then who will the check/settlement be made payable to? - The customer who the COI reflects as a loss payee.

I understand that the "loss payee" listing is normally provided on property policies and is needed to protect entities/people that have a secured interest in covered property owned or required to be by the owner of the property that is leased or rented by the insured. The insurance provider has sent a COI to an insured/motor carrier's customer so the motor carrier can haul for the customer and the COI states: "(customer of motor carrier name) will be the loss payee on any payment for damage to property you own that is covered by this coverage form." This could/might/should make the customer happy by reflecting a term that they require even though it is a term not normally used with legal liability/cargo policies so the insured can do business with their customer and at claim time would not require the insurance provider to pay any more than the policy would without the COI.

Let's not get hung up on words/terms but what these words/terms would require the insurance provider to do. Remember, if the policy responds and addresses the claim, the COI does not come into the claim.