

Guard your practice against lawsuits

Suing a financial advisor has become “easy pickings” for a client’s family members when advisors don’t accurately complete life insurance applications. But Jim Bullock, a veteran life insurance advisor and consultant who acts as an expert witness in lawsuits, puts the blame squarely on advisors.

BY SUSAN YELLIN

“**T**he bad news is that agents are getting sued,” Bullock told the November meeting of the **Canadian Group Insurance Brokers (CGIB)**. “The bad news is widows who were counting on money to pay off the mortgage and set up some income for their family... are being devastated by being denied life insurance claims. The good news is that by suing the agent the claim gets paid. That’s good for the widow, bad for you.”

Bullock told the insurance advisors that he came to the CGIB meeting to shake them up and bolstered his comments by noting that all but three agents in the 140 cases he’s worked on have had to pay up through their errors & omissions (E&O) insurance because of something they’ve done – or haven’t done.

In one of the cases where he consulted, E&O insurance paid out 140% of the claim, said Bullock. But he quickly noted E&O insurance typically covers only 50%-75% of the claim. In the end, only a widow, said Bullock, has walked away with only half the face value of the claim after paying for lawyers – and even then, it could take years.

Lapsing policies

Lapsing policies is a very common reason for a claim denial, he said. The carrier notifies both the client and the agent when the premium bounces and the account goes into default.

Clients aren’t that great about notifying others about a change in address or banking information, but the carrier sometimes assumes that the advisor may have more accurate

information as to how to get in touch with the client and leaves it there. But it doesn’t always end well.

Here’s an example of one of his cases. The agent sold the client a \$500,000 life insurance policy, but it lapsed because the premium wasn’t paid. The reason? The client had suffered a severe back injury on the job and was out of work. The agent knew the policy could have been kept in force with a waiver of premium – but the client didn’t even know he had the waiver. Turns out, the agent didn’t particularly like the client, didn’t know he was ill and so didn’t give him the advice.

When Bullock reviewed the policy he noticed the policy also contained a \$1,500 a month disability benefit for three years – but again, the client didn’t claim it because he didn’t know he had it, nor did the advisor tell the client about it.

Failing to know your client

In the end, Bullock said the advisor failed in his duty to know his client, a lawsuit was launched against the agent and the E&O paid out.

“The moral of the story is: you have to give a client advice on a timely basis. The client isn’t expected to know the nuances that you obviously do,” he said.

Bullock said it’s up to professional advisors to not only tell a client that, for example, a policy has lapsed but also to outline the “dire consequences” that can occur if they don’t catch up on their payments.

Bullock said in the case of a lapsed policy it’s the advisor’s job to get in touch with the client and clearly describe that if they don’t pay the premiums a spouse, for example, will not be able to collect on the death benefit she had been counting on to help pay off the mortgage or send the children to university in the event the policyholder died.

“That’s the role of the insurance agent. You have the relationship with the client and you have to put it into the context that’s meaningful to them,” he said.

Lack of documentation

“The agent is usually wrong and even if they’re right, they don’t have the documentation to defend

