



# values

## A CLEARER VIEW: LOSS OF BUSINESS INCOME

VALUES NEWSLETTER  
*is an informational  
newsletter for  
attorneys who assist  
clients in answering  
valuation questions  
and claims adjusters  
who work to pay the  
proper amount of a  
claim.*

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In our last newsletter, we talked about how determining loss of business income isn't always easy. Among many of the factors you need to consider, we pointed out that how the period of restoration is defined (or, in some cases, interpreted) in a business insurance policy can have an important impact on the outcome of a claim.

### The Insurance Industry's "Perfect Storm"

In 1909, Morris Rosenberg started a one-man company called "Chicago Window Cleaning" in San Francisco. During the company's humble beginnings, Rosenberg washed the windows of a handful of banks and hotels in the Bay area. Over the years, Rosenberg grew his company and expanded throughout the U.S., adding a number of services ranging from janitorial, building engineering and maintenance, security and parking. By 2001, the company, now called ABM Industries, had revenues of more than \$2 billion, employed more than 60,000 employees and was listed on the New York Stock Exchange.

Among other properties across North America, ABM serviced the World Trade Center (WTC) in New York. On September 11 of 2001, seventeen of ABM's employees were among the three-thousand who died in the 9/11 terrorist attacks. ABM's business, as well as hundreds of other businesses located in the WTC, came to an abrupt stop.

ABM's losses however, were not limited only to seventeen employees. They also faced a big problem. Their operations in the WTC would never recover because plans to rebuild would take years – and it was likely that most of the tenants in the two buildings would relocate to other office buildings instead of returning.

Many of the tenants of the WTC rightfully made claims for loss of business income. In most cases, these claims were investigated and paid based on the terms of the policies. Insurers and insureds agreed upon a period of restoration, on average, of just more than three months, the period to permanently relocate and resume operations.

*In most cases where the period of restoration is used to help determine loss of business income, an experienced forensic accountant can play an important role in determining actual economic loss. Our experience can be a valuable resource.*

Like the others, ABM also made a claim for loss of business income. But unlike the others, ABM claimed that its period of restoration extend beyond the three-month average that most of the WTC tenants were given. They argued that moving their offices would not put them in a position that would allow them to restart their business as if it were uninterrupted. They claimed that, because their business was so closely intertwined with the WTC – and not its tenants – that it could not resume operations again from another location and it claimed that its period of restoration should actually be determined by the amount of time it was estimated it would take to rebuild the WTC – six or seven years.

Ultimately, the court agreed with ABM, and instructed the insurance company to pay ABM for loss of business income equal to the amount of time it would take to rebuild the WTC – six or seven years.

Any time a business insurance claim includes loss of business income –and especially when it involves suspended operations and the period of restoration, it makes sense to bring in an experienced forensic accountant to help calculate the actual economic loss. While these claims can sometimes seem fairly simple on the surface, many times, there are other factors that can easily be overlooked that may play an important role in determining the true economic loss.

*Helping a company move to a new location can often save the insurer significant money in claims involving loss of business income. It often pays to be proactive in getting companies back on their feet after a disaster.*

#### **Can We Help You?**

Dale Cremers, Bob Holtzbauer and Roger Nearmyer have experience to help you address questions about forensic accounting. Please call for more information at 515-274-4804 or e-mail us at [info@chncpa.com](mailto:info@chncpa.com).

