



# VALUES

## LOSS OF BUSINESS INCOME AND THE PERIOD OF RESTORATION

**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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Let's just say last year was a bad year for insurance companies in hurricane-prone areas of the U.S. Katrina and the others battered the Gulf coastline mercilessly, leaving a wide swath of destruction. And, I'm reminded of one of the biggest victims every time I fill my car with three-dollar gas.

The oil industry's off-shore refineries were heavily battered by the storms. Many were completely shut down. Obviously, from an insurance standpoint, these companies had legitimate claims – with a hefty dose of “loss of business income” making up part of those claims. And on the surface, that seems to make sense. If you own a refinery that was damaged and in need of repair to be operational again, you're likely losing the income generated by the refinery, right? You also have expenses that include things like payroll, security and well, insurance.

But some experts have brought up an interesting point. The oil companies who run those refineries were raking in record profits as a result of the storms

themselves. And, most business insurance policies stipulate that the insured must demonstrate and quantify an actual loss that they sustained. If the company can't show an actual loss of business income, how can they claim it?

It's impossible to determine how these claims might be resolved without seeing the actual policies and getting input from attorneys and the courts. But one of the big questions is: did the company experience their record profits during the “period of restoration” or afterwards? If the former is true, most business insurance policies require these profits to be netted out of the loss of income part of the claim. If those profits add up to more than the company can claim in income losses, they may not have any claim for business income loss.

That scenario might seem a little far-fetched here in the Midwest, but imagine the following possibility:

A windstorm blows through town, causing widespread damage. Most of the businesses in town have sustained some level of damage – including three clients of ABC Insurance

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*The period of restoration can play a key role in determining an insured's actual economic loss. Experienced forensic accounting professionals are experts in these types of claims. Our experience can be a valuable resource.*

Company – a restaurant, a power equipment company and a bottled water distributor.

Similarly, the power equipment company is severely damaged. Within a week, it rents warehouse space and is operational again. The tractors, chain saws and brush chippers it sells are in high demand after the storm due to clean up efforts and the company's sales increase significantly.

The bottled water distributor is not able to find suitable facilities to relocate immediately. However, the company is able to truck-in water from its suppliers. Increased demand for bottled water generates increased profits for the company.

In the first two cases, the increased sales and profits take place after the "period of restoration" in their policies because they were able to repair or find new facilities. When they reopened their businesses, their business income loss coverage ended, so all of the increased sales and profits were theirs, even though they still may have some extra expense claims.

In the case of the water distributor, the company's period of restoration had not yet ended because they were not able to be operating from new facilities. The higher demand for the product was due to the storm damage – and because the company actually generated more money in sales during their period of restoration than they normally would have, the extra income generated would decrease their claim for business income loss.

Sure, there are arguments that you could probably make on either side of this story –that's what makes it interesting. But the key in determining the actual economic loss in these types of cases is working with experts who can help determine what would have happened had the storm never taken place. And often, working with a forensic accountant with significant experience in insurance claims and business income loss is a smart place to start.

**Stay tuned. In our next Values, we'll talk about another significant claim – and how the determination of the "period of restoration" may have a huge impact on that claim.**

#### 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).

