

# WHEN FREIGHT BECOMES FRAUD

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**T**OO often the sweet smell of premium results in a disregard of fundamental principles and in seeking to protect their image, insurers, on occasion, create a safe haven for fraudsters. Coupled with this, there is some evidence to suggest that in some quarters the speed in which claims are settled has become an obsession; a commendable concept but easily abused.

These words, which I borrow from Neil Kelly, President of the Chartered Institute of Loss Adjusters, so accurately reflect our experiences within the International Maritime Bureau (ICC-IMB). The bureau was founded in 1981 as an initiative of the International Chamber of Commerce which is based in Paris. At that time, there was both an upsurge in experts' awareness of maritime fraud — as highlighted by the incident of the *Salem* — and a lack of a point of focus for the industry if it were to combat and eradicate the practices.

In the ten years which have passed since its inception, the bureau has become acknowledged as being the industry's voice, not only in questions of fraud but also in respect of all types of maritime crime and malpractice. By natural extension, the function of the bureau has, within the last two or three years, become extended to embrace the difficulties which sometimes arise in aviation cargo.

This is not the only development at the IMB which is based at Barking to the east of London. At a recent conference in Rotterdam it was suggested that the IMB should be more concerned with toxic waste at sea. We are also calling a regional meeting of law enforcers in the Far East where the IMB is likely to open a sub-office — in Kuala Lumpur. And at a recent briefing in London (whose agenda included reflagged Iraqi ships) Miami's chief criminal investigator, George R. Havens, spoke about preventative action by insurers.

In our everyday operation, we have found in many of the cases with which we have been involved, that there has been a lemming-like mentality and something almost approaching a



willingness to be defrauded on the part of the victims whether they be the actual trader or the insurer. This willingness never exists in the form that they know what was going to happen and are completely non-caring about the consequences, but rather that they were so neglectful of common-sense, self-preservation or counter-measures for such behaviour to border on the irresponsible.

It may well be something of an exaggeration to say that all fraud is preventable but it would not be such an excess to suggest that in 80% of the cases which come to us, simple procedures would have prevented the crime. In many instances, the pressures of time and expenditure and, dare we say it, greed, will mean that the victim will not stop to consider whether the bargain he is getting is for real or whether there is a sting in the tail. The old adage says that there is no such thing as a free lunch and, equally true, it can be said that in commerce there is no bargain; there is always a price which must be paid.

This eagerness to turn a blind eye to the obvious was highlighted in the recent series of frauds involving West African oil.

In these cases, a whole cargo of oil was offered at a little below the market price but the suggestion was always that the consignment was something outside the system and was a form of payment for "services rendered". The cargo of oil actually existed but the minor detail was that it did not belong to the seller. Although the supporting forged documentation was excellent, it was always possible, by diligent, prudent enquiry, to cast sufficient doubt on the transaction to make it an unwise enterprise.

And yet, time and again, traders would venture in, even though they knew of the dangers and more than one of them suffered a considerable loss as a result. The same phenomenon also affects insurers although the motives are somewhat different. Many are the examples where an insurer has been defrauded and has known of the fact. He has accepted the claim because he believes that it would cost

more to contest than to pay.

One example of this, some years ago, was in respect of a consignment of paint which had been sent from Britain to a country in West Africa where, it would appear, the consignee had a contract to redecorate Government House. A claim was laid in respect of damage to the consignment and this was obviously false, either totally or in degree. We were asked for our opinion and there was a very real chance that evidence to prove falsity could be found. It was unfortunate, however, that the cost of this exercise would amount to about one third of the claim and so the insurer, in what he cared to call a "balanced commercial decision", chose to pay the claim.

Insurers are sometime unaware of the extent to which fraudsters will go to commit their crimes, sometimes for comparatively small amounts. Some years ago there were, in England, a husband and wife who ran a small marine insurance broking business. They had contacts in many countries of the world, either in the form of fellow countrymen or in the shape of an extremely large family network.

Not only were they in the business of insurance broking but they also were engaged in trading in various commodities. They put their knowledge of insurance alongside their trading contacts, laced this with a measure of criminal intent and the result was an almost perfect system for fraud. They would arrange and ship out consignments of all different types of consumable items, including clothing and other household and personal goods. In so doing, they would either ship the goods in a condition which would give rise to a claim or would encourage the consignee to claim along lines which they themselves dictated.

In one case, they shipped out supposedly new clothing of a fairly high declared value and yet, when the receipt of information caused the consignment to be examined at the port of loading before shipment, it was found that the 'new' clothing was, in fact, second-hand clothing which had been bought at local jumble sales. In addition to that, it was found that the clothing was damp and would, in fact, have been ruined by mildew by the time it reached its destination.

At first glance it might seem that this was not an attempt at fraud against the insurer but rather it was an attempt at fraud against the consignee by the consignor and this is the way it might have been dealt with but for the fact that the very information which caused the consignment to be examined at the port of loading was actually an intercepted letter. This letter was from the consignor to the consignee, who happened to be in the family. In the letter were the full details of how the appropriate claims form had to be filled in including a form of inspection report in order to deceive the insurer.

It could be thought that, eventually, the mere repetition of such claims would have resulted in the insurer taking some action but, as the consignor was also an insurance broker, he made certain by the way the insurance cover was effected, including using possibly all the different marine insurers on the London market, that no pattern would ever emerge. One of the ploys used was to ensure that no single claim ever came over the limit which meant that it would warrant specific attention.

Every insurer will know of the mass of small claims received and one executive once referred to these as the "nickel-and-dime" claims. Another executive, then suffering a spate of these claims, is alleged to have said, "Small they may be but I'm being 'nickled and dimed' out of business".

Another example of the subtle, corrosive effect of small claims is in the field of travel insurance. It is now possible, and is indeed a very welcome and necessary part of the travel scene, to insure oneself against all the various perils which can beset the traveller. These range from ordinary loss of baggage through to medical expenses due to illness or injury whilst abroad. It is also possible to commit fraud with these claims.

One particular insurer in Scandinavia decided that something needed to be done about what appeared to be excessive fraud and adopted an aggressive vetting procedure. The net result of this process, in which the IMB was heavily involved, was that an element of fraud was found in some 92% of the claims submitted for medical expenses. The extent of fraud varied from a simple enhancement of costs through to a total forgery of all the supporting documents. This type of fraud is made fairly simple by the commonplace but totally unethical practice whereby some medical institutions will supply blank or incomplete invoice forms if they are told that the charges are going to be met "by insurance".

The same Scandinavian insurer has found that by using a system of local contacts on a worldwide basis, it is possible to have an enquiry undertaken very economically. By using this system the managers have found that, at the end of a year, they have paid out much less in investigation fees than they would have had to pay to meet the claims had they not been proved to be fraudulent.

Whilst frauds and crimes of the small-to-medium range are obviously the more frequent, there are some large, spectacular crimes. The case of the *Salem* springs immediately to mind but there is one other which has just been concluded. This was the case of the *Lucona*. It sank in January 1977 near the Maldives in the Indian Ocean. Half of the crew were rescued but six lost their lives. There was an initial rejection of the claim by the cargo insurers on the basis that manifested cargo did not exist.

The case spread 'tentacles of consequence' which resulted in the resignation of two Austrian government ministers following the launch of a parliamentary enquiry into the loss of the vessel.

Revelation tumbled upon revelation until one Udo Proksch became a very wanted man. He was eventually arrested under circumstances which would not be accepted in a work of fiction because they were too improbable and in March 1991 he was sentenced to twenty years imprisonment for murder. Fraud sometimes comes large — as with the *Lucona* — and sometimes small and it is impossible to



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quantify.

Admittedly, individual companies would be able to give figures for fraud as it affects them but fraud is very much like murder, the perfect crimes are never detected and it could well be that the incidence of fraud affecting insurers is far greater than they realise. What can the industry do about the problem?

To quote Kelly again: "It will be necessary for insurers to admit that a large section of our society has no regard for the principle of 'utmost good faith' and for them to revise their thinking regarding commercial considerations".

We are finding that there is a slow but increasing awareness among insurers both as to the existence and size of the problem and an appreciation of what can and needs to be done to meet the growing threat. The difficulty

remains, however, that many claims executives are intransigent when it comes to some commercial aspects.

Whilst it cannot be denied that insurers, as commercial organisations, must always have an eye to profitability, sometimes it appears to an outsider that upon this rock all else founders. This profit-consciousness manifests itself in many different ways.

First, there is the sensitivity over client confidence. Whilst the principle behind this is both understood and appreciated, sometimes it works to the detriment of individual companies and their clients. In an investigation in the Far East on behalf of one insurer, although his own losses amounted to two large losses in a five month period, by undertaking the enquiries which the insurer found impossible because of "client confidentiality" it emerged that there had been eleven similar losses in the same period. By identifying common factors, the cause of the losses was established and eliminated thus bringing immediate and continuing benefit to all.

The second area in which profit consciousness has a deleterious effect on efficiency is in the realm of crime prevention. So often we have found that a claims executive is solely concerned with the details which will enable him to mitigate his liability for the one claim which happens to be in front of him at any one moment in time. We find a disinclination to consider anything which is likely to reduce the claims potential in the future.

As one broker put it some time ago, "The industry is not interested in risk elimination. If there is no risk there is no insurance; if there is no insurance there are no premiums; if there are no premiums there is no brokerage, if there is no brokerage, my children starve." Extreme though this expression of opinion may be, it demonstrates an attitude.

Another insurer said that he was only concerned with the fact that premium income must exceed claims and he did not much care how high both these figures went as long as the differential continued to exist. But, in fairness, it must be said that a more enlightened attitude is emerging.

There are those companies which realise that crime prevention is an investment for the future. They also have faith to realise that whilst the benefits of crime prevention, by their very nature, are non-quantifiable, they will be very real. There is also an increasing awareness both of the value of not accepting as a risk anything with a fraud potential coupled with it.

This has been demonstrated recently in both the London and American markets where, over the last three years, a request for cover has regularly emerged in respect of a very large consignment of a precious metal. By a system of checking, one with the other through an independent intermediary, the insurers have

found that all does not appear to be well with this particular risk and, to a man, no cover has been offered.

Perhaps it is proper to make mention of the function of law enforcement agencies in the area of insurance fraud. There appears, quite often, to be a lack of involvement of these agencies in the investigation of those frauds which have an international dimension. This is because of two factors. First, law enforcement by its very nature is national in concept, basis and resources. This will mean that there is often a very real problem in acting efficiently beyond national boundaries.

The second reason is more prosaic: fraud investigation costs money. Law enforcement agencies are supported by the national exchequer and the resources therefore come from the taxpayer or society at large. It is not unreasonable for that society which provides the resources to have an influence on the priority of use. This so often means that public opinion will require law enforcement resources to have, as their main objective, those crimes which affect social conscience. These are usually the personal crimes and those which affect the man in the street. Set against this yardstick of priority, commercial crime will always get the short straw.

It cannot be stressed too strongly that fraud is preventable if ordinary routine enquiries are undertaken before the slip is signed and, equally, much can be done in a cost effective way to show if any aspects of a claim are fraudulent. Unless and until the insurance industry accepts that the world of honest men is, unfortunately a thing of the past, they will continue to present the fraudster with a seedbed of opportunity on which he will, without doubt, continue to flourish. ■

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