

# RISK MANAGEMENT NEWSLETTER FOR LEGAL PROFESSIONALS

Produced by IOA's Consultant Practice Group

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## INTRODUCTION

As you may know Gary Smith of IOA has previously been a co-presenter to the Florida Construction Law Institute on contracts and Wraps. Gary is one of the lead consultants of IOA's National Consultant Practice Group which consist of some of the most experienced, highly educated, disciplined consultants in the country. IOA has begun this newsletter to the Institute's legal professionals to provide topical Risk Management information throughout the year that might be helpful in advising your clients in this area.

IOA will begin this initiative by introducing these Risk Management Consultants that have embraced the objectives of this program and have offered their expertise and profiles to be utilized when approaching Risk Management Issues and clients.

We are hopeful the information provided in this newsletter will be beneficial to your firm and please feel free to reach out to us as needs arise.

## NEWSLETTER OBJECTIVES

Better "showcase" IOA's Risk Mgt Consultant talent and provide a Broker/Consultant resource you can depend on.

Extend IOA's Risk Mgt and Consultant Team for discussion on specialized Risk Management Topics.

Identify Risk Management needs your clients may have.

Identify E&O concerns





## About IOA

Insurance Office of America, IOA is Florida's largest privately held, full-service insurance agency founded in 1988 and is one of the fastest-growing independent agencies in the United States. IOA is ranked as the **10th largest privately-held agency nationally by Insurance Journal**. In rankings of the largest insurance brokers overall, (including public and privately held entities) IOA is **the 31st largest broker in America**, according to Business Insurance Magazine. IOA was named one of the top three Commercial Insurance Agencies of the year by National Underwriter. IOA is a **full service broker** providing Property, Casualty, Employee Benefits and **complete Risk Management and Brokers Services**. Our national headquarters is in Longwood, Florida.

We have 34 offices nationally and more than 800 employees, 200 plus brokers, most of who are partner-owners to serve you. We also have a National Consultants Practice Group which consists of some of the most experienced multi disciplined professionals in the industry, which are avail-

able for specialized consulting and services. This culture of partnering for providing "ALL IN" resources available to clients is unique in the industry.

We have a robust access to a broad spectrum of major world-wide insurance markets which will give you and your clients current access to market information, trends, and products.

*John K. Ritenour  
Chairman of the Board*

## Wrap Up Contract Administration

The Contract design phase of a wrap can not be overemphasized. Usually these contracts require customization and Specificity with regard to the Risk Management and Insurance provisions. It is important for Owners, Developers, and Contractors to understand the necessity to develop contract language early in the development phase, because the contracts may establish the Bid Credit Criteria to be used when negotiating enhanced value credits for a wrap. These contracts can also be drafted to help identify certain risk associated with the project such as Workers Comp Leasing arrangements and third party over actions. Contracts may be drafted to require identification of certain restrictive insurance endorsements such as designated work exclusions, A&E Liability and Environmental Exposures.

### National Consultants

#### Practice Group expertise

Construction

Wrap Ups

Professional A&E Liability

Aviation

Builders Risk

Surety/Bonding

Self Insurance/Captives

Condominium/HOA

Public Entity

Florida Procurement

Large Property Schedules

Health Care

Entertainment

### ?? Did You Know ??

#### Facts About Risk Management Consulting

- A specialized need by a client, not necessarily driven by premium such as.
- Loss Control and Safety Programs
- Litigation Support, premium & coverage audits
- Specialized coverage placements
- Risk Mgt Info Systems development
- Surety Assessments
- Fee Based Independent Consulting



## Wrap Rate Strategy

As most of us know the economy has caused severe hardships on the construction and real estate development activities in Florida and across the country. This economic downturn has had an ancillary effect on WRAP insurance rates as more and more carriers compete for fewer and fewer prospects. Rates for a Specific Project that may have been in the \$12 - \$13 range in the peak of the market have dropped to \$5 - \$6 range in the depressed economy.

This has greatly reduced the size requirements for WRAPs. These rate dimensions will allow much smaller projects to support for example, a GL only WRAP for projects in the 20 million dollar range for certain type projects.

As the economy begins to recover you can expect for rates to trend up with the increase in development. A good recommendation for owners, developers and contractors is to develop a rate strategy to offset these impending increases.

An experienced Wrap Broker/Consultant may be able to develop a strategy to address wrap rate inflation.

## Enhanced Bid Credit Value

Some construction projects such as condos or other habitation properties are prime candidates for a WRAP insurance program.

The Owner/Developer when establishing the Risk & Insurance criteria in their contracts with contractors will establish criteria which in many cases will not be complied with by bidding contractors. This is especially true when requirements through the Statute of Repose for Products and Completed Operations.

Rather than requiring bidding contractors to produce project specific policies to comply with contract provisions or worse weakening or ignoring contract provision the Owner/Developer could consider negotiating enhanced bid credits as a value for providing the appropriate coverage. Properly drafted contracts and bidding documents can platform bid credits that could equal for example 1.5% of contract value which will support a good portion of the premium requirements for a WRAP in the current economy.

*Gary L. Smith, CPCU, AAI  
Vice President/National Accounts*

## Enrollment

Carriers enrollment criteria may be endorsed on a wrap policy as a condition of coverage. It is critical for these conditions to be recognized in the contracts and wrap addendums. This can become problematic if claims occur when contractors are mobilized to job-sites before enrollment procedures have been complied with and contract provisions are not clear regarding coverage. All contractor levels should be properly informed regarding this issue or cross claims may occur as a result.

## ? Frequently Asked Questions ?

What coverages are really available in the marketplace ? Example Discontinued Operations.

## New Consultants

We are pleased to welcome to CPG:  
Andrea Northrop JD  
Tony Tatum, Esq.

## Errors and Omission Concerns

Our consultants will assist in identifying areas of E&O concern related to Risk Management and Insurance for best practice development to reduce liability to the firm when engaged in this area.

Example: Drafting Builders Risk Purchased by owner as excess in contracts



Gary is Vice President of Insurance Office of America, Inc National Accounts Division. He directs the overall risk management resources for Insurance Office of America national account clients. Prior to this position he was President and Chief Operating Officer of Corporate Risk & Litigation Management and developed programs for Multi National accounts for over thirty years.

Mr. Smith has consulted as well as testified regarding insurance matters and has served as an arbitration panel member in reinsurance matters. He has also been requested to address legislative committees regarding insurance legislation pending in Florida such as the Statute of Repose. Mr. Smith recently co-presented at the Florida Bar Construction Law Institute on Wraps and the integration of, and conflicts between, Insurance Policies and contract clauses provided by contractors, subcontractors and design professionals.

**He holds a Risk Management degree from Florida State University and is qualified by the State and Federal Court as an expert witness in Insurance.**

Gary Smith-CPCU, AAI

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## Industry Updates

Periodically various CPG members will be asked to publish certain risk management recommendations or articles of interest which can assist you with your clients in specific Risk Management areas.

As requested CPG members can conduct webinars, workshops and seminars on certain Risk Management and consultant disciplines and specializations. Examples are Architect & Engineer Liability and Exposure.

## Upcoming Publications

A&E Liability Issues

Surety Stories

Environmental Liability Topics

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