



## GUEST ESSAYS

### **A Mid-Year Snapshot Of an Ever Changing Professional Liability Marketplace**

Michael Welbel

With few exceptions, consistency is not a hallmark of the domestic a/e professional liability insurance marketplace. On the contrary, change is the norm. Insurers that once were major players are now a faded memory. Experienced buyers of this coverage are familiar with the volatility of this market. Long periods of declining premiums are typically replaced by short periods of sharply higher pricing. Numerous reasons exist as to why this occurs, but bottom line is that insurers are looking for underwriting profitability. Profitability can be influenced by many factors including but not limited to, insurer competition, disappointing investment returns, increased frequency or severity of claims.

*a/e ProNet* recently conducted a survey of the current major insurers that serve the design community. The purpose of this report is to assist design firms in evaluating the differences between carriers including matters such as, policy limit capabilities, deductible ranges, policy minimum premiums and a host of other important coverage issues. Careful review of this information will provide the insurance buyer with insight into what insurers are looking for in a prospective insured and which insurer will best serve their unique needs.

In general, things are looking better for insurance purchasers than it has for the past several years. Thankfully, there are a significant number of insurer choices and policy rates appear to have stabilized, at least for the time being. There is no indication of a hardening market on the immediate horizon and current conditions seem to point to greater competition in the coming months. Keep in mind that this situation can change rapidly due to factors independent of the overall a/e insurance environment. These factors might include poor investment returns, unusually violent hurricane activity or events such as the WTO attacks. Recent quarterly reports of a number of major insurers show a reduction in profits, some are reporting significant reductions compared to the previous quarter. Re-insurance is another major factor in a carrier's appetite to write coverage such as a/e professional liability insurance. A significant increase in re-insurance costs or reductions in coverage, will quickly carryover into the insurer's pricing and policy coverages.

Certain design services and project types affect an insurer's willingness to insure a design firm. The greatest concern of most insurers currently relates to condominium projects. Condominium projects are perceived as being very susceptible to claim activity. There are a lot of explanations offered as to why condominium projects are more likely to generate claims than other projects types. However when speaking with insurers we find that the real problem is that design fees are disproportionately low for this project type. Since underwriters use fees as their primary "rating base" adjustments are required in order for the insurer to obtain adequate premium.

The following comparison matrix will enable you to have a better understanding of the differences between the insurers represented. It is possible that this will reveal information that might encourage you to consider changing insurers. However, caution must be exercised when comparing insurers. Consideration should be given to factors not included in this comparison; factors such as underwriting responsiveness, claims service and practice management assistance. Longevity in the market and continuity with any given insurer are also important issues. Design professionals are encouraged to work closely with their insurance broker to find the best insurance company for them in view the firm's unique characteristics. Working through this maze of insurer choices to find the right carrier, the right policy coverage and pricing requires the services of a specialist broker who works exclusively with design

professionals. Anything less than broker expertise can lead to improper coverage, potential loss of coverage at renewal and overpayment of policy premium.

		<b>ACE</b>	<b>CNA</b>	<b>Everest</b>	<b>Avreco Lloyd's<sup>1</sup></b>	<b>St. Paul</b>	<b>U.S. Specialty</b>	<b>Zurich</b>
<b>Min. Limits (000's)</b>		100	100	100	100	500	250	250
<b>Max Limits (000's)</b>		15,000	25,000	3,000 <sup>2</sup>	5,000	5,000	2,000	30,000
<b>Min. Deductible (000's)</b>		2,000	0	2,500	2,500	0	5,000	5,000
<b>Min. Premium</b>								
	<b>100,000</b>	1,250	1,250	1,400 <sup>3</sup>	1,000	X	X	2,500
	<b>250,000</b>	1,500	1,350		1,400	X	2,500	2,500
	<b>500,000</b>	1,850	1,500		1,650	1,500	3,250	2,500
	<b>1,000,000</b>	2,500	1,800		1,900	1,800	4,000	2,500
	<b>2,000,000</b>	X	3,500	X	2,650	2,800	X	2,500
<b>Specific Project Excess?</b>		Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Project Coverage?</b>		Yes <sup>4</sup>	Yes <sup>5</sup>	No	Yes <sup>6</sup>	No	No	Yes

1. Avreco manages a program that is underwritten by Lloyd's. The responses contained are limited to the Avreco program and do not apply to Lloyd's in general.
2. 5,000,000 is available on a project specific basis.
3. No established minimums at higher limits
4. Min premium of 50,000
5. Min. premium of 5,000/1,000,000-limit
6. Offered on an annual basis only

		<b>ACE</b>	<b>CNA</b>	<b>Everest</b>	<b>Avreco Lloyd's<sup>7</sup></b>	<b>St. Paul</b>	<b>U.S. Specialty</b>	<b>Zurich</b>
<b>Structural Engineers?</b>		Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Geotechs?</b>		Yes	Yes	No	No	No	Yes	Yes
<b>Condominiums?</b>		Yes <sup>8</sup>	Yes <sup>9</sup>	Yes <sup>10</sup>	Yes <sup>11</sup>	Yes <sup>12</sup>	No	Yes <sup>13</sup>
<b>Mold Exclusion?</b>		No	No	No	Yes	No	No	No
<b>Asbestos Exclusion?</b>		No	No	No	No	No	No	No
<b>CPL Coverage?</b>		Yes <sup>14</sup>	Yes <sup>15</sup>	No	No	Yes <sup>16</sup>	No	Yes <sup>17</sup>
<b>First Dollar Defense?</b>		No <sup>18</sup>	Yes	Yes	Yes	Yes	No	Yes

<b>Date of most current policy</b>		2003	2005	2002	1997	1999	2005	1996
<b>Approx # of insds.</b>		2,000	23,000	Not Available	Not Available	6,000	5,000	Not Available

7. Avreco manages a program that is underwritten by Lloyd's. The responses contained are limited to the Avreco program and do not apply to Lloyd's in general.
8. Up to 10% for firms with very good claim history
9. Supplement application required
10. No specific cut-off as to percentage of work. Insurer looks to the risk as a whole for acceptability.
11. No specific percentage but will avoid a high percentage of condo work.
12. Very limited appetite for firms working on condo projects. No distinction recognized as respects areas of practice.
13. Not for project coverage and typically limited to 10% of fees.
14. Optional for an additional premium
15. Automatically included as part of the basic A/E coverage
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17. Optional for an additional premium
18. 80/20 defense sharing option is available

		<b>ACE</b>	<b>CNA</b>	<b>Everest</b>	<b>Avreco Lloyd's<sup>19</sup></b>	<b>St. Paul</b>	<b>U.S. Specialty</b>	<b>Zurich</b>
<b>Approx. Total Prem. Vol</b>		30,000,000	410,000,000	Not Available	Not Available	85,000,000	Not Available	Not Available
<b>Risk Management Credits?</b>		Yes	Yes	Yes	No	No	Yes	Yes
<b>Targeted Firms</b>								
	<b>Size</b>	250,000-25,000,000	Open to all	10,000,000 or less	Small to Medium	25,000,000 or less	Not Available	All Sizes
	<b>Preferred Area of Practice</b>	Interior, Electrical, Civil	Open to all	No environmental, Materials testing or process engr.	Generally open including design/build	Not Available	Not Available	Non-residential
<b>Risk Management Services</b>		Free pre-claims assist	Extensive	Contract review, free pre-claims assist	Not Available	Free pre-claims assist, contract review, newsletter	Not Available	Free pre-claims assist. Contract review, newsletter, risk management guide



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Michael Welbel is the founder and President of M G Welbel and Associates, Inc. He has worked with architects and engineers since 1981. During that time he has been responsible for national professional liability a/e programs. Welbel has presented to AIA, The American Bar Association, Chicago Bar Association, Professional Liability Underwriting Society, CPCU Society, NSPE, PEPP and other professional societies. He has authored numerous articles in connection with professional liability insurance including a chapter in the Design Professionals Handbook of Business and Law (John Wiley & Sons, 1991.) Welbel is a member of the Illinois Bar and currently spends most of his time helping architectural and engineering firms avoid claims and manage their insurance costs. M G Welbel and Associates, Inc. are members of **a/e ProNet**, a National Association of Professional Liability Insurance specialists serving the design professions.

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*This article is intended for general discussion of the subject, and should not be mistaken for legal advice. Readers are cautioned to consult appropriate advisors for advice applicable to their individual circumstances.*