

Accidental contamination to an ingredient used by a baking manufacturer

In this claims example a mistake by a third party supplier triggers a contaminated product insurance claim for a manufacturer of allergen free baked goods. This case study highlights how Liberty Specialty Markets (Liberty) approached the claim and ultimately pursued recovery.

The Insured operates an allergen free manufacturing plant in Victoria, which is dedicated to the production of gluten, dairy and nut free baking mixes suitable for consumption by people with various allergies and dietary intolerances. Needless to say, the Insured takes its internal systems and processes very seriously to ensure they maintain an allergen free manufacturing environment.

Unfortunately, there was a major failure on the part of one of the Insured's trusted suppliers. That supplier provided the Insured with a raw material, and in this particular incident, the raw material was baking powder. Through no fault of the Insured's, the baking powder was contaminated with a potential allergen called casein, which was an undeclared ingredient on the Insured's packaging and labelling.

Casein can pose a health threat for those with intolerance or allergy to dairy related products.

By the time the contamination was discovered, the faulty raw material had been used in an array of cake mixes and other products sold by the Insured to major retail customers. Given the health threat which the faulty raw material posed, a recall was required across several varieties of cake mixes and other products at a retail level.

Investigating the circumstances

Upon notification of the claim under the Insured's Contaminated Products Insurance Policy, Liberty referred the matter to Crawford Loss Adjusters (Crawford) for investigation. Crawford is a trusted partner for Liberty, and held initial telephone enquiries with the Insured to determine the broad circumstances of what had occurred. Thereafter they requested that the Insured prepare a range of background documents required to properly complete the assessment.

Fortunately, important testing data which clearly traced the end allergen to a defective batch of baking powder had been completed. Thorough preparation for the meeting occurred, meaning that by the time Crawford and the Insured met, most of the important documentation confirming loss causation, and the scope of the issue, was made available by the Insured.

An important aspect of meeting with Insured's onsite is not only to gather the facts needed by Liberty to properly consider the claim and policy response, but also to provide reassurance to the Insured regarding both the process of the claim, and to outline important ongoing steps the Insured needed to take to protect its own position. Following the site meeting Crawford quickly prepared a report so that that Liberty could make an early policy response determination.

Establishing policy coverage

The facts of the matter were not in dispute. The baking powder contained an unintended contaminant called casein, and that particular contaminant would pose a threat to a person's health if consumed, in the form of dairy allergies and intolerances.

Coverage under the Contaminated Products Insurance policy was quickly established by Liberty and subsequently communicated to the Insured and the relevant broker.

Determining the scope of the claim

Crawford were next engaged to properly assess the scope of the claim and to report to the Insurer on its likely exposure. Part of this assessment involved the consideration of financial records, and representatives of Crawford's Forensic Accounting team were utilised to assist in determining the overall assessment recommendation.

A large volume of documents were collected from the Insured to ensure prompt quantification of the loss under the policy, and to collate adequate documentary evidence to pursue a recovery against the negligent supplier of the contaminated raw material (or its Insurer).

Quantification of losses can take some time to finalise. Much is dependent upon the speed at which the Insured can submit financial and other records to enable completion of the assessment. Throughout the entire process both the Insured and their broker were kept regularly informed of the quantification progress.

What was covered?

Much of the loss related to costs levied against the Insured for administration charges imposed by major retailers from removing stock from their shelves. Such costs are non-negotiable and can place a significant financial burden on a medium sized food manufacturer.

The remainder of the claim related to the value of product either removed from shelf or which remained onsite and had not yet reached the supermarket shelf. Some general logistics charges, including transportation, disposal and product testing costs were also claimed for.

Ultimately the claim was settled for \$337,248, net of the Insured's \$37,420 Self Insured Retention, and to the Insured's satisfaction. Careful explanation was provided where any adjustment to the amount claimed was warranted or necessary.

Recovering losses

During the assessment process the responsible ingredient manufacturer was placed on notice that they were considered wholly responsible for the event and to notify their Insurer. Both Crawford and Liberty were thereafter actively involved in the pursuit of recovery from the responsible Insurer.

With the assistance of a clearly set-out quantification of loss by Crawfords, supported by relevant documentation, the Liberty Loss Recovery Department continued with actions to recover the resultant insured and uninsured costs in relation to the loss.

The Insurers of the ingredient supplier appointed their own Loss Adjuster to investigate the contamination incident, and they subsequently advised that the Insurers had chosen to appoint a legal firm to protect their interests. Ongoing recovery negotiations then occurred between the Liberty, and the legal representative, to progress this aspect.

After active involvement by the Liberty recovery department, supported by Crawford, a recovery settlement totalling \$300,000 was ultimately agreed between the relevant parties, leading to the successful finalisation of the claim and recovery process.

In this example Liberty and Crawford worked closely together to deliver a positive outcome for the broker and their client.

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