

CRISIS MANAGEMENT // CLAIMS EXAMPLE // AUSTRALIA

## A manufacturing issue causing no bodily injury reveals the value of a Retailers Withdrawal Endorsement

**In this claims example a production error by an overseas cosmetics manufacturer led to a Retail Withdrawal claim to cover losses incurred by the Australian distributor.**

The Insured, based in Melbourne, is a supply chain business to the cosmetics and skincare industry. It is a family business which has operated for decades.

A major aspect of the Insured's business is the importation and sale of cosmetic products to a range of customers around Australia.

### **Customers reject their inconsistent foundation product**

The Insured submitted a claim under its Contaminated Products Insurance Policy relating to seven shades of foundation (make-up) blended overseas by a trusted Italian cosmetics firm. That firm was highly regarded internationally and the Insured had encountered no issues with the product it manufactured on their behalf previously.

Unfortunately, on receipt and distribution of the foundation product into the Australian market, a number of customer complaints were received. The foundation, rather than carrying a consistent colour and shade, comprised of a series of discolourations consistent with inadequate mixing of the base ingredients. The Insured's retail customers rejected the product and demanded it be replaced.

### **Investigations show no bodily injury**

Upon notification of the claim under the Insured's Contaminated Products Insurance Policy, Liberty Specialty Markets (Liberty) referred the matter to Crawford Loss Adjusters (Crawford) for investigation. Crawford is a trusted partner for Liberty, and their investigations established that the discolouration did not occur as a result of an Accidental Contamination event.

Investigations revealed this to be purely a quality and appearance issue, with no evidence suggesting that use of the foundation would result in an allergic reaction, burning of skin or any other symptom of bodily injury.

The lack of potential for use of the product to cause bodily injury meant that the Accidental Contamination section of the policy was not triggered. Fortunately for the Insured, the policy issued by Liberty included a Retailer's Withdrawal Endorsement. This extension was enlivened by the withdrawal event, meaning that the value of the product which had left the Insured's premises when the issue was discovered was covered, despite the fact that the affected product posed no threat of injury to end users.

This extension under the policy provided significant benefit to the Insured – indeed a benefit totaling \$75,000.

### **Liberty and Crawford pursue the overseas manufacturer to recover costs**

The scope of the Insured loss, unfortunately, exceeded the figure payable under the Retailers Withdrawal Endorsement. Liberty however arranged for the engagement of lawyers to communicate with the responsible Italian supplier. The intention being to not only secure a recovery of the \$75,000 payable under the policy, but additional uninsured costs incurred by the Insured as a result of this unfortunate event.

Crawford has assisted lawyers in the past not only in the investigation of crucial background facts but to properly assess the scope of the loss including the quantification and collecting of the required evidence including invoices, so that the Italian supplier or their Insurer has all the information they require to successfully reimburse the Insured or their Insurer for the loss.

Whilst the recovery aspect of this claim remains ongoing, the Insured and its broker were pleased not only with the prompt investigation and quantification of the matter, but with the prompt passing of insurance proceeds by Liberty, including the ability to access lawyers and other experts to support a successful recovery action.

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

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