

## LAW FIRMS IN THE YEAR OF THE CRIMINAL

When we look back on 2009, we may dub it “the Year of the Criminal.” The financial thefts of unprecedented size that have come to light have stunned a public and business community already shell-shocked by the credit collapse of 2008. While Bernard Madoff and his celebrity victims may have dominated the news, those businesses responsible for the assets of clients - such as law firms - have also found themselves the focus of attention. This point was driven home to the legal community by recent events at the Dreier LLP, where, before the financial collapse, allegedly \$380 million or more in client funds went missing.

When firms discover they’ve been victimized, they typically turn to their fidelity bond, or commercial crime insurance to cover the theft of company and client assets. At this point, these firms and their clients will become very interested in just how much crime coverage they carry. Unfortunately, they are sometimes disappointed by what they find.

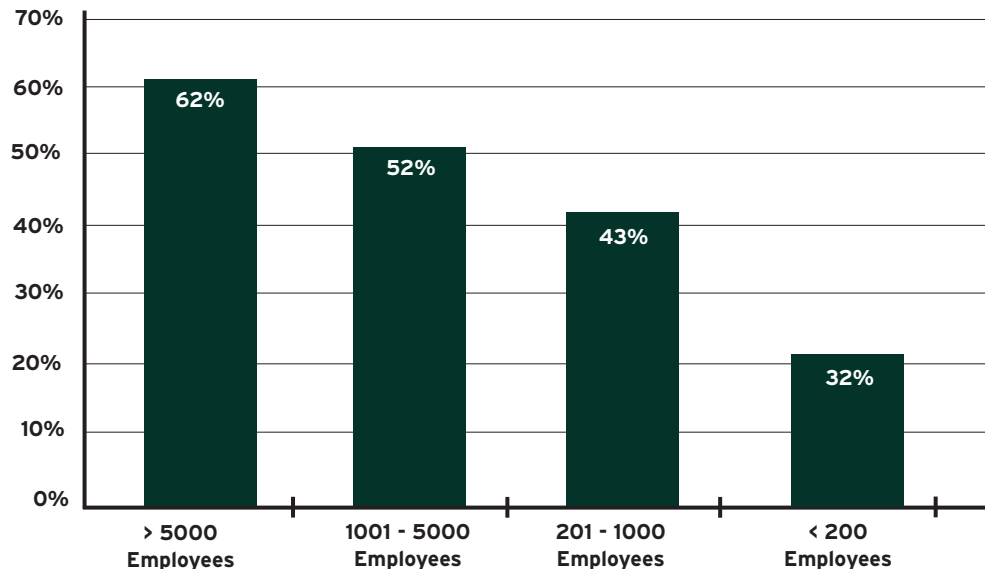
No one carries billions in coverage; crimes of that scope are rarely contemplated, even by the most cautious and pessimistic. Even when the stakes are not so outrageous, the amount of fidelity bonding at many firms may be seriously inadequate. One reason for this is that firms often fail to consider the amount of client funds they are holding when looking at their bonding limits. Often these limits have not been reviewed in years or may stop at statutory limits (where they apply). In both cases, coverage may not reflect exposures - especially in a world where hundreds of millions of dollars may be held in trust, sometimes for a single client.



## LEAN TIMES AND FIDELITY LOSSES

Times have never been tougher for many law firms. Transactional business has been drastically reduced. Clients who most need legal services are often in financial distress, putting additional pressure on the firm and firm staffing. As employees of the firm become concerned about their prospects for future

## PERCENTAGE OF COMPANIES REPORTING FRAUD, BY NUMBER OF EMPLOYEES



(Source: PriceWaterhouseCoopers's 4<sup>th</sup> Biennial Global Economic Crime Survey, figure 1.2)

employment, and management pays closer attention to expenses, two things tend to happen. Employee motivation to commit fraud increases, and ongoing fraud schemes are uncovered. Both cases, ultimately, set the stage for fidelity bond losses. Make sure your fidelity limits are sufficient.

Also of interest on the subject of Fidelity coverage:  
*Executive Risks Alert* – ‘It Would Be Criminal’ to Drop Your Crime Cover’

*Executive Risks Alert* – ‘More Myth Busting on Crime (Fidelity) Coverage’

*Executive Risks Alert* – ‘Crime (Coverage) Does Not Pay - A Crime/Fidelity Myth’

### PRACTICE TIP: ERISA BONDS

Firms must also be careful with bonds mandated by the Employee Retirement Income Security Act of 1974 (ERISA), which requires every person who handles ERISA plan funds to be covered by an ERISA bond. All firms have an ERISA bond, but the coverage may need to be extended to include ERISA assets recovered on *behalf of clients*. This is a common problem, but an easy one to fix.

## CONTACTS

### Geoffrey Allen

212 915 7951

geoffrey.allen@willis.com

### Steve Leggett

212 915 7901

leggett\_sr@willis.com

### Eric Joost

212 915 7708

eric.joost@willis.com

### Kim Quarles

212 915 8161

kim.quarles@willis.com