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Letter to Members and Associates of the American Institute of Accountants, December 27, 1945, re: Relationship between Independent Audits and Protection against Losses afforded by Fidelity Bonds

American Institute of Accountants

Surety Association of American

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Surety and fidelity bonds

American Institute of Accountants

INCORPORATED UNDER THE LAWS OF THE DISTRICT OF COLUMBIA

THE NATIONAL ORGANIZATION OF CERTIFIED PUBLIC ACCOUNTANTS

13 EAST 41ST STREET, NEW YORK 17, N. Y.

December 27, 1945

To Members and Associates of the
American Institute of Accountants

Gentlemen:

no printed letter

later than this 12/8/45

For several years representatives of the American Institute of Accountants and the Surety Association of America have been discussing the relationship between independent audits and protection against losses afforded by fidelity bonds. As a result of such discussions a committee of the Surety Association has urged its members to subscribe to a procedure which the committees of the Institute and the Surety Association recommend should be followed in the event a surety company believes it should assert a claim against the independent accountant of the holder of a fidelity bond under which the surety company has paid a loss.

*see
C.P.A.
3/2/48
1, 6.*

This procedure is outlined in the letter reprinted below, which has now been received from the companies named, which issue fidelity bonds. Eight of the letters received contained an additional paragraph stating an exception in the event the reinsurer or coinsurer is not one of those listed and cannot be persuaded to follow the procedure outlined in the letter. It does not appear that this exception is apt to be of importance.

"American Institute of Accountants
13 East 41st Street
New York 17, N. Y.

"We recognize that it is to our mutual interest to reach an agreement to avoid ill-advised legal proceedings against accountants who may audit the books of individuals, firms or corporations holding fidelity bonds issued by our Company or applying for such bonds. The term 'accountants' as used herein applies only to certified public accountants who are members of your Institute and to accounting firms with which your members are connected as partners.

"This agreement shall not apply to cases where, by specific agreement with their clients, accountants engage to discover whether any loss, such as is insured against under fidelity bonds, has occurred.

"Apart from such cases we agree:

"1. That no claim for failure to discover whether any loss, such as is insured against under fidelity bonds, has occurred shall be asserted by or through us against accountants in any cases not involving affirmatively dishonest or criminal acts or gross negligence on the part of accountants.

"2. That, if the procedure outlined in the following paragraph is made effective, claim shall thereafter in no case be asserted except as provided therein.

"A committee of three persons shall from time to time be appointed jointly by you and by Surety Association of America, for such term as may be determined by you and the Association. If our Company pays a loss under a fidelity bond and, in our opinion, the case involved affirmatively dishonest or criminal acts of the accountants or gross negligence on the part of the accountants, the procedure shall be as follows: Our Company shall, by registered mail, through the Institute or Association, request a hearing by the above committee, and with such request shall indicate in writing the circumstances of the case and the accountants believed involved. Copy thereof shall be sent by this Company by registered mail to the accountants. Thereupon, the committee shall fix a time and place for hearing upon at least thirty (30) days' notice by registered mail to this Company and to the accountants. The committee may hear the matter in such manner and at such length as it may determine and shall submit its conclusions in writing. If the committee concludes that the case involves affirmatively dishonest or criminal acts of the accountants, or gross negligence on the part of the accountants, then our Company may assert claim against the accountants, but neither this agreement nor any action thereunder shall be used in evidence or referred to in any judicial proceeding brought to establish such claim, or any claim by either party against the other.

"3. That this agreement may be terminated by our Company at any time and notice thereof to you shall be binding upon the accountants but such termination shall not apply to audits undertaken pursuant to engagements made prior to such notice."

This letter (in eight cases with the addition noted above) has been signed by the following companies:

Aetna Casualty and Surety Company
American Bonding Company
American Guarantee and Liability Insurance Company
American Surety Company
Commercial Casualty Insurance Company
Continental Casualty Company
Eagle Indemnity Company
Fidelity and Deposit Company
Fireman's Fund Indemnity Company
Glens Falls Indemnity Company
Globe Indemnity Company
Great American Indemnity Company
Maryland Casualty Company
Massachusetts Bonding and Insurance Company
Metropolitan Casualty Insurance Company
National Casualty Company
New Amsterdam Casualty Company
New York Casualty Company
Royal Indemnity Company
Standard Accident Insurance Company
United States Casualty Company
United States Fidelity and Guaranty Company
Western National Indemnity Company

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The companies listed herein are those companies from which a letter had been received up to the time of issuance of this letter. It is hoped that other companies issuing fidelity bonds have decided to sign or will, in the near future, sign similar or identical letters.

Receipt of this letter is most gratifying to members of the Institute and the procedures outlined therein should result in mutual benefits.

Yours truly,

T. DWIGHT WILLIAMS
President