



CHUBB GROUP OF INSURANCE COMPANIES

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July 7, 2014

Via E-Mail

Henry Hanke
Claims Advocate
Financial Services Group
Legal & Claims Practice Group
Aon Risk Services Central, Inc.
200 East Randolph Street, 8th Floor
Chicago, IL 60601

RE: Insured: AF Global Corporation
Policy No.: [REDACTED]
Policy Type: Forefront Portfolio 3.0 Policy/Crime Coverage Part
Claim: Fraudulent Request for Transfer of Funds
Company: Federal Insurance Company
Claim No.: [REDACTED]

Dear Mr. Hanke:

Thank you for the information that has been provided with regard to AF Global Corporation's ("AF Global") loss related to the fraudulent e-mail request for the transfer of funds. Federal has reviewed the information provided and we regret that we must decline coverage for this matter under Forefront Portfolio Policy No. [REDACTED].

According to the information that has been provided, on May 21, 2014, an AF Global's Director of Accounting, Glen Wurm, requested that AF Global's bank send a wire transfer in the amount of \$480,000 to Agriculture Bank of China based on e-mail instructions from a person purporting to be AF Global's Chief Executive Officer, Gean Stalcup. The e-mail instructions received by Mr. Wurm advised that this was a confidential financial operation, which should take priority over other tasks. The e-mail also indicated that Mr. Wurm would receive a call from Steven Shapiro, purportedly an attorney for KPMG. About 30 minutes after receipt of the e-mail, Mr. Wurm received a call and an e-mail, purportedly from Mr. Shapiro, requesting that Mr. Wurm wire \$480,000 to Agriculture Bank of China. Based on the instructions from the person purporting to be Mr. Shapiro, Mr. Wurm had the transfer made by AF Global's bank, Bank of America ("BOA"), pursuant to the instructions received in the e-mail.

On May 27, 2014, the person purporting to be Mr. Shapiro, acknowledged receipt of the funds and asked Mr. Wurm to send an additional \$18 million. Mr. Wurm became suspicious and alerted his immediate supervisor and the officers of the company. After determining that both

EXHIBIT C

Henry Hanke
Claims Advocate
Financial Services Group
Legal & Claims Practice Group
Aon Risk Services Central, Inc.
July 7, 2014
Page 2

requests were fraudulent, AF Global attempted, without success, to recall the wire from BOA and reported the matter to the police. As a result, AF Global has sustained a \$480,000 loss. AF Global purchased Forefront Portfolio 3.0 Policy [REDACTED] for the period of October 31, 2013 to October 31, 2014. The Crime Coverage Part of the Policy provides **Forgery Coverage**, **Computer Fraud Coverage** and **Funds Transfer Fraud Coverage** each with a \$3,000,000 limit and a \$100,000 deductible.

In consideration of payment of the premium and subject to the Declarations, General Terms and Conditions, and the limitations, conditions, provisions and other terms of this coverage section, the Company and the Insureds agree as follows:

I. INSURING CLAUSES

Insuring Clause (D): Forgery Coverage

- (D) The Company shall pay the **Parent Organization** for direct loss sustained by an **Insured** resulting from **Forgery** or alteration of a **Financial Instrument** committed by a **Third Party**.

Insuring Clause (E): Computer Fraud Coverage

- (E) The Company shall pay the **Parent Organization** for direct loss of **Money**, **Securities** or **Property** sustained by an **Insured** resulting from **Computer Fraud** committed by a **Third Party**.

Insuring Clause (F): Funds Transfer Fraud Coverage

- (F) The Company shall pay the **Parent Organization** for direct loss of **Money** or **Securities** sustained by an **Insured** resulting from **Funds Transfer Fraud** committed by a **Third Party**.

II. DEFINITIONS

For purposes of this Coverage Part:

Computer Fraud means the unlawful taking of **Money**, **Securities** or **Property** resulting from a **Computer Violation**.

Computer System means a computer or network of computers, including its input, output, processing, storage and communication facilities, and shall include off-line media libraries.

Computer Violation means an unauthorized:

- (A) entry into or deletion of **Data** from a **Computer System**;
- (B) change to **Data** elements or program logic of a **Computer System**, which is kept in machine readable format; or
- (C) introduction of instructions, programmatic or otherwise, which propagate themselves through a **Computer System**,

directed solely against an **Organization**.

Data means information contained in records, manuscripts, accounts, microfilms, tapes or other records, which are processed and stored in a **Computer System**.

Financial Instrument means checks, drafts or similar written promises, orders or directions to pay a sum certain in money, that are made, drawn by or drawn upon an **Organization** or by anyone acting as an **Organization's** agent, or that are purported to have been so made or drawn.

Forgery means the signing of another natural person's name with the intent to deceive, but does not mean a signature that includes, in whole or in part, one's own name, with or without authority, in any capacity for any purpose. Mechanically or electronically produced or reproduced signatures shall be treated the same as handwritten signatures.

Funds Transfer Fraud means fraudulent written, electronic, telegraphic, cable, teletype or telephone instructions (other than **Forgery**), purportedly issued by an **Organization**, and issued to a financial institution directing such institution to transfer, pay or deliver **Money** or **Securities** from any account maintained by such **Organization** at such institution, without such **Organization's** knowledge or consent.

Insuring Clause (D), **Forgery** Coverage requires that any alleged **Forgery** or alteration is covered only if it is on a **Financial Instrument**, as that term is defined. Even if an electronic signature on an e-mail qualifies as a **Forgery**, and we do not agree that it does, there would be no coverage under Insuring Clause (D) because the e-mail is not a **Financial Instrument**. The

Henry Hanke
Claims Advocate
Financial Services Group
Legal & Claims Practice Group
Aon Risk Services Central, Inc.
July 7, 2014
Page 4

fraudulent e-mail received by AF Global conferred no rights upon any payee but was simply an e-mail asking AF Global to wire transfer funds to a fraudulent account. It was Mr. Wurm's subsequent wire instructions to BOA that caused a payment to be made. Therefore, we cannot agree that an e-mail qualifies as a **Financial Instrument**, as required by Insuring Agreement (D).

In addition, Insuring Clause (D) requires that the loss result directly from the **Forgery**. Even if there was a **Forgery** in this instance, which we dispute, the alleged **Forgery** on the e-mail did not result in any direct loss to AF Global. If Mr. Wurm had not acted on the e-mail and had not instructed payment to be made by BOA, there would have been no loss. Therefore, AF Global did not sustain a direct loss resulting from a **Forgery** on an e-mail, thus the **Forgery** Coverage does not apply to this claim.

In order for coverage to apply under Insuring Clause (E), **Computer Fraud** Coverage there must be a direct loss of **Money, Securities or Property** sustained by AF Global resulting from **Computer Fraud** committed by a **Third Party**. **Computer Fraud** is defined as the unlawful taking of **Money, Securities or Property** resulting from a **Computer Violation**. There is no coverage for AF Global's claim under **Computer Fraud** Coverage because there was no **Computer Violation**, as defined above. Even though Mr. Wurm received fraudulent instructions via e-mail to initiate the wire transfer, it was Mr. Wurm who requested that the funds be transferred via wire by BOA. Therefore, there was no unauthorized entry into, deletion of, change to **Data** or **Data** elements of a **Computer System** and no unauthorized introduction of instructions through a **Computer System**.

According to the definition of **Computer Violation**, the unauthorized instructions must propagate themselves through a **Computer System**. An example of this would be a computer virus which takes over a computer. The e-mail instructions received by Mr. Wurm did not propagate themselves through a **Computer System**. The e-mails entered into an e-mail in-box and that is where they stayed. Secondly, the introduction of instructions must be unauthorized. In this case, the instructions were sent via e-mail to an in-box which was open to receive e-mails from anyone. While the sender of the e-mail was acting fraudulently, it cannot be said that the sender was not authorized to introduce e-mails into Mr. Wurm's e-mail in-box.

The loss in this claim was caused by the transfer of funds pursuant to Mr. Wurm's instructions to BOA. No **Third Party** used a computer to take the funds. The definition of **Computer Fraud** requires a taking of **Money** resulting from a **Computer Violation**. The e-mail was not a taking of **Money**. If Mr. Wurm had not issued instructions to BOA, there would have been no loss despite the e-mail. A loss of this nature is not a **Computer Fraud** simply because Mr. Wurm acted in reliance on a fraudulent e-mail. An e-mail is simply a means for communicating information; it is not a means of transferring **Money**.

Henry Hanke
Claims Advocate
Financial Services Group
Legal & Claims Practice Group
Aon Risk Services Central, Inc.
July 7, 2014
Page 5

Finally, there is no coverage for the loss under **Funds Transfer Fraud** Coverage Insuring Clause F, because the fraudulent written instructions were not purportedly issued by BOA. In this case, the fraudulent e-mail was sent to Mr. Wurm directing him to issue a wire transfer to a fraudulent account. Mr. Wurm, with knowledge and consent, then instructed BOA to issue the wire transfer to the fraudulent account.

For the reasons outlined above, Federal declines coverage for the claim submitted by AF Global under the Policy for the period of October 31, 2013 to October 31, 2014.

Federal's position is based on the information received to date and is subject to further evaluation if additional information is provided by the Insured. Federal expressly reserves all rights as provided under the Policy and at law, and neither this letter nor any subsequent investigation or inquiry is to be deemed an admission of liability or a waiver of any such rights.

Should you have any questions or concerns regarding this matter, please feel free to contact me at 412-456-8011 or at brobbibaro@chubb.com.

Very truly yours,
Chubb & Son
A division of Federal Insurance Company



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