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## DIRECTORS' & OFFICERS' (D&O) LAWSUIT RESULTS FROM SOCIAL ENGINEERING LOSSES

**In 2016, the CEO of FACC, a Chinese owned, Austrian-based aerospace parts manufacturer, was duped in a social engineering scheme that ultimately cost the company approximately €52.8M.**

The Chief Executive Officer, Walter Stephan, received an email purporting to be from another senior employee at FACC. Mr. Stephan believed that the email was legitimate, and then acted on its instruction – ultimately leading FACC financial controllers to wire approximately €52.8M to fraudsters over numerous transfers.

Upon realising the fraud, the company was able to block €10.9M of the transfers at various financial institutions, ultimately leaving the company with a €41.9M loss from the deception. Furthermore, FACC was also left with an operating loss of €23.4M in its 2015/16 fiscal year, which contrasts sharply with the forecasted €18.6M operating profit in the absence of the fraud.

Shortly thereafter, the company fired both Stephan and its CFO. At the time of the dismissal, the company stated that “The supervisory board concluded that Mr. Walter Stephan has severely violated his duties, in relation to the ‘fake president incident.’”

Most recently, in December 2018, FACC filed a lawsuit against Stephan and its ex-CFO, seeking damages of €10M. The company is alleging that the defendants failed to set up adequate internal

controls and to meet their obligations of collegial cooperation and supervision.

A Directors' & Officers' (D&O) liability insurance policy can provide financial protection for board members and executives when faced with a supervisory lawsuit. The policy will also respond should a public company be named in a securities lawsuit.

Indemnification for settlement and judgment amounts, as well as legal defence costs, can be provided by D&O liability insurance in the event of a covered claim.

Mark Brannon, Commercial Director at Towergate Insurance Brokers commented, “We have recently discussed the potential coverage under a Directors' & Officers' policy where a board is legally exposed by poor Brexit contingency planning. This is another example of how a D&O or Management Liability policy may respond due to a director violating fiduciary duties or failing to establish robust internal controls, checks and balances. With so much current change, whether geopolitical, technological or socioeconomic, we are seeing new causes for claims.”

For more information or for a full review of your needs, please speak to your usual Towergate Insurance Brokers contact or email us at [TIB@towergate.co.uk](mailto:TIB@towergate.co.uk)