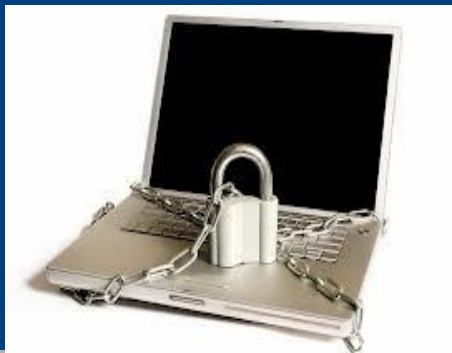




## AAPA Cybersecurity Seminar

Andaz Savannah Hotel  
March 11, 2015  
10:30 am – Noon

# Understanding the Business Risk



**Presenter:**

**Joshua Gold, Esq.**

(212) 278-1886

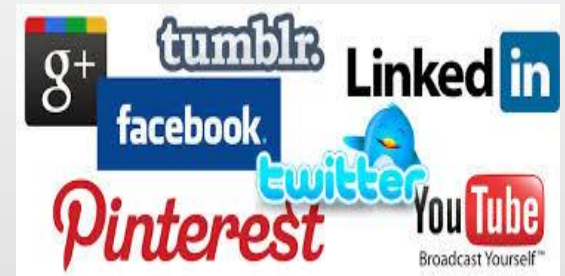
[jgold@andersonkill.com](mailto:jgold@andersonkill.com)

# Disclaimer

The views expressed by the participants in this program are not those of the participants' employers, their clients, or any other organization. The opinions expressed do not constitute legal advice, or risk management advice. The views discussed are for educational purposes only, and provided only for use during this session.

# Identify the Exposure

- ✓ Hackers
- ✓ Rogue Employees
- ✓ Independent Contractors
- ✓ Human Error
- ✓ Social Media
- ✓ Mobile Devices
- ✓ Cloud Computing
- ✓ A Changing Regulatory Environment



# INSURANCE POLICIES COVERING LOSS.

- Take Inventory of Insurance Policies
- GL, D&O, E&O, Crime, All Risk Property, Cyber Policies
- Match the coverage to the type of exposure: *e.g.*, 1<sup>st</sup> Party, 3<sup>rd</sup> Party, Hybrid of the two, etc.

# COVERAGE UNDER CGL?

- IP Exposure
- Data Loss
- Business Interruption
- Third Party Losses
- Privacy

***WHEN CONVENTIONAL IS NOT ENOUGH.***

# **Consider Cyber Policies, but beware!**

# The Marketplace View Is That Current Cyber Options Offer Insurance For:

- Privacy Injury Liability
- Privacy Regulatory Proceedings and PCI Fines
- Network and Content Liability
- Crisis Management Fund
- Network Loss or Damage
- Business Interruption
- Electronic Theft
- Network Extortion

# The Insurance Policy

Exposure Category		Description
Network Security Liability		Promises liability coverage if an Insured's Computer System fails to prevent a Security Breach or a Privacy Breach
Privacy Liability		Promises liability coverage if an Insured fails to protect electronic or non-electronic information in their care custody and control
Media Liability		Promises coverage for Intellectual Property and Personal Injury perils the result from an error or omission in content (coverage for Patent and Trade Secrets are generally not provided)
Regulatory Liability		Promises coverage for lawsuits or investigations by Federal, State, or Foreign regulators relating to Privacy Laws
Breach Response / Crisis Management	Notification / Legal Expense	Promises to pay 1st Party expenses to comply with Privacy Law notification requirements ; In many instances goodwill notification; Legal Advisory
	Credit Monitoring Expense	Promises to pay 1st Party expenses to provide up to 12 months credit monitoring
	Forensic Investigations	Promises to pay 1st Party expenses to investigate a system intrusion into an Insured Computer System
	Public Relations	Promises to pay 1st Party expenses to hire a Public Relations firm
Data Recovery		Promises to pay 1st party expenses to recover data damaged on an Insured Computer System as a result of a Failure of Security
Business Interruption		Promises to pay 1st party expenses for lost income from an interruption to an Insured Computer System as a result of a Failure of Security
Cyber Extortion		Promises payments to a party threatening to attack an Insured's Computer System in order to avert a cyber attack
Technology Services/Products & Professional Errors & Omission Liability		Brokers Indicate that Technology Products & Services and Miscellaneous E&O can be added to a policy when applicable



# RISK MANAGEMENT CONSIDERATIONS

- Viruses: Coverage or Exclusion
- Virus Defined in a Manner that Might Affect Hacker Coverage if it's an exclusion?
- Watch definitions like a hawk: "Confidential" Information vs. Trade Secrets vs. "Customer Information"
- Coverage for Regulatory Matters (e.g., FTC)
- "Modules approach"; different definitions for different sections?

# Cyber Policy Considerations

- Conditions and exclusions involving data security efforts / protective measures of policyholder;
- Coverage for Network Computers Only?
- What about Laptops?
- Insured Property / Locations / Premises;
- Where are Servers / Computers Housed?
- D&O type claim exclusions

# TIME SENSITIVE PROVISIONS.

- Fear of Reporting Claims?
- Timely Notice
- Proofs of Loss
- Suit Limitation Clauses

# Litigation Issues When Fighting For Coverage Of Cyber Claims

- Not Much Precedent
- What Exists is Not Uniform
- Policy language is often not uniform
- Careful What Gets Disclosed During Discovery:
  - E.g., Sensitive Data, Customer Information, Network Security Blueprints



**QUESTIONS?**



**Have a question that we did not get to address  
during Joshua Gold's Presentation on Cyber  
Security Insurance & Risk Management Issues?**

**Please send your question to:  
[jgold@andersonkill.com](mailto:jgold@andersonkill.com)**

**-or-**

**Call Josh at: (212) 278-1886**

# Thank You

## Joshua Gold, Esq.

(212) 278-1886

[jgold@andersonkill.com](mailto:jgold@andersonkill.com)