

Krauter & Company

Chairman and CEO

Neil Krauter

After graduating from college early and going to work at Lloyd's of London, Neil Krauter started working at Marsh & McLellan Companies. It was the start of a steady ascent in what would evolve into the world of D&O insurance. Krauter rose to become worldwide practice leader of the AON Mergers & Acquisitions Group, and vice chairman of AON in New York, then fulfilled a promise he made to himself when he was 18: Retire at age 40. He bought a wine store and spent more time with his then-young family. Five years ago, Krauter decided to get back into the game after New York's former Attorney General Eliot Spitzer ransacked the insurance brokerage community, found wrongdoing, and gave the entire industry a black eye. Rather than work for someone else, Krauter consulted some of his former private-equity clients and took their advice to hang his own shingle. Krauter & Company now employs 60 professionals in nine U.S. offices.

In your experience, what are a few of the "bear traps" of which a public company director should be aware?

The D&O policy for most directors is nothing more than a hope and a prayer. Most directors don't know what they've got and they fall into bear traps inadvertently. Most directors don't know what constitutes a claim or when they have to notify their carrier of a defined circumstance. When the board gets a letter from someone who is disgruntled, is that a claim or a circumstance? Rarely do directors have the knowledge to make those decisions. When does your D&O policy renew? A large percentage of directors won't have that information readily available and most haven't seen the application that's been filled out on their behalf.

The management liability landscape is a very complex space. What changes have you seen that affect the type of program structures of which a public company director should be aware?

It's a good question and everyday life is the landscape: the economy, climate issues, tax changes, politics. Every change in legislation alters the landscape that directors and officers are forced to deal with. It's a daunting task to try to keep your policy up to date and it's not going to change unless someone changes it. Most boards renew their policies once a year and once it's put in place, it's never looked at again. If the line of credit for the company on whose board you serve doesn't get renewed, how does that affect the potential for litigation and your D&O policy? We had a client whose assets were transferred through Lehman and those funds are still frozen. I can tell you these definitely impacted the D&O policy.

What are the three key things directors need in their D&O policy?

Without question, directors should always have Side A non-rescindable coverage, a predetermined legal counsel approved and put on their policy, and advancement of defense costs. While policies may say they'll pay for legal defense, we have seen directors of entities in



bankruptcy or that are insolvent have to go out and search for legal counsel. You don't want to be out there shopping for legal counsel in a crisis and you don't want underpaid, under-motivated legal representation. If you're in a truly bad situation, your personal assets may be attached and getting out of that trouble is crucial to your well-being. Directors and officers need to understand advancement of defense costs and how quickly those costs are advanced.

Public company directors tend to be highly motivated, intelligent business executives. Why would they need a firm like yours?

Most directors are smart and accomplished, but they know very little about insurance and the D&O policy. I believe if they really understood their liabilities—that 100 percent of their personal assets could be at risk—most wouldn't serve on a board. I know I wouldn't unless I had both a solid corporate indemnity, good legal counsel and an insurance policy that I understood. This is not a commodity and it's not an off-the-shelf product. In some respects, it's a piece of artwork that needs to be crafted with a knowledgeable, experienced broker, the board and with counsel. You're not going to get that at a lot of larger brokerage firms, because the volume of business they need to transact sometimes doesn't allow the time and effort it really takes to execute at this high level.

If you could give one piece of advice to everyone who sits on a board, what would it be?

Make sure you have the right partners, the right strategy, the right budget and get Side A coverage.