

## When Far Away Problems Hurt your Business, Look to Insurance

By Marshall Gilinsky



**Marshall Gilinsky**  
Anderson Kill &  
Olick, P.C.

The massive travel disruptions caused by the 9/11 attacks, the Deepwater Horizon oil spill and the volcanic eruptions in Iceland - ***all of which severely impacted businesses in the hotel and hospitality industry far from the place where the disaster originated – should serve as a wake up call to hoteliers to make sure that their property insurance program covers business income losses resulting from such faraway occurrences.*** In the wake of the eruptions in Iceland and Gulf oil spill, insurance industry spokespeople and some insurance advisers immediately were on the airwaves to tamp down policyholders' expectations of coverage,

usually on the grounds that such losses were not covered since there was no damage to the policyholder's own property.

But many commercial property insurance policies do not contain such a requirement in order to trigger coverage, and many policies cover business interruption losses caused by damage that occurs away from the insured premises – or even where there has not been any physical damage anywhere. Accordingly, savvy policyholders can and should ensure that they have express coverage for highly disruptive faraway events like terrorist attacks, volcanic eruptions or the recent Gulf oil spill (and many others).

Many standard property insurance policies provide coverage for losses caused by damage away from the insured premises. For example, in addition to business interruption ("BI") coverage designed to protect businesses from losses stemming from interruptions in their daily operations when there is damage on the

property, many policies include contingent business interruption ("CBI") coverage, which covers losses in business income due to property damage that occurs at a supplier's or customer's business, or damage even further up the chain of suppliers or customers. Another important and fairly common coverage is dependent property or attraction property insurance, which covers losses of business income caused by damage to a remote business that attracts or supplies customers to your business. For example, if an amusement park or convention center that draws guests to your hotel is damaged, or an airport or other transportation hub that brings customers to your business is damaged, this "dependent property" coverage insures the resulting downturn in your profits.

Although these standard types of coverage usually require property damage somewhere to trigger coverage, there is no reason why the trigger has to be tied to damage to your or someone else's property. As we saw with the eruptions in Iceland, hospitality businesses can be severely affected by travel disruptions even where there is no damage to anyone's private property, and there is no reason why hoteliers should not consider what similar types of exposures they face and seek to have such risks expressly covered under their property programs. In the end, a day or two spent carefully going over your policy wording with your broker, insurance consultant or lawyer can pay big dividends when claims arise – not only in avoiding frustration in the claims process, but also in terms of the size of the ultimate payment of your claim.

*Marshall Gilinsky is a shareholder in the New York office of Anderson Kill and practices in the Insurance Recovery and the Corporate and Commercial Litigation Departments. For more information, contact him at (212) 278-1513 or by e-mail at [mgilinsky@andersonkill.com](mailto:mgilinsky@andersonkill.com).*