

EXHIBIT 5

CLEVELAND PUBLIC LIBRARY

Finance Committee
September 17, 2009

RATIFICATION OF PUBLIC OFFICIALS LIABILITY INSURANCE

- WHEREAS, The Board of Library Trustees routinely purchases public officials and employment practices liability insurance for claims primarily related to "wrongful acts" including defense costs associated with such claims; and
- WHEREAS, The Library's policy with United National Insurance Company expires on September 18, 2009; and
- WHEREAS, The Library has received through our insurance agent, McGowan & Company, Inc., the proposed premium quote of \$24,956.25 from the incumbent insurer, United National Insurance Company, same as last year's premium of \$24,956.25 for the same coverage as last year, liability limit of \$1,000,000 with a deductible of \$50,000 per claim; and
- WHEREAS, Crain Langner & Co. has reviewed the proposal as detailed in the attached response recommending renewal with United National Insurance Company; and
- WHEREAS, The Library Director and Fiscal Officer have set into motion the purchase of this renewal coverage; now therefore be it
- RESOLVED, That the Board of Library Trustees ratifies the decision to purchase Public Officials Liability Insurance from United National Insurance Company for the period of September 18, 2009 through September 18, 2010 through McGowan & Company, Inc. with the \$24,956.25 expenditure being charged to General Fund: Account 11020053-53400 (Insurance).



RECEIVED
FINANCIAL SERVICES
2009 SEP -1 AM 11:11

McGowan
Private Client Group

August 28, 2009

Ms. Sandra Kuban
Cleveland Public Library
325 Superior Ave, NE
Cleveland, OH 44114

Re: Public Officials Liability

Dear Sandy:

Please see attached the Public Officials Quote for the 9/18/09 renewal. United National, the incumbent insurer, has offered the same terms and conditions. We also approached Darwin, RSUI/Landmark, Chartis/AIG and Scottsdale. Unfortunately these carriers declined to quote, because of past claim payments and numerous EEOC filings as outlined on the application.

To finalize the renewal process, please sign & notarize The Ohio Surplus Lines Affidavit, which is also enclosed. Please return this as soon as possible in order that we can complete the filing with the Ohio Insurance Department.

If you have any questions or concerns, please contact our firm at any time.

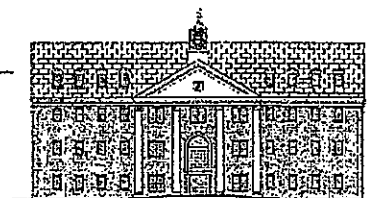
Very truly yours,

McGowan & Company, Inc.

Colin C. Dean
Managing Director

Domestic Headquarters
Old Forge Centre
20595 Lorain Road
Fairview Park, OH 44126

Phone: 440.333.6300
Wats: 800.545.1538
Fax: 440.333.3214
www.mcgowanpcg.com



Domestic Headquarters

Admitted To Practice In All 50 States



PUBLIC OFFICIALS LIABILITY & EMPLOYMENT PRACTICES LIABILITY INSURANCE QUOTATION

INSURED: Cleveland Public Library

CARRIER: United National Insurance Company (Incumbent / Non-Admitted)

COVERAGE: Public Officials Liability / Employment Practices Liability

FORM: *Claims-Made & Reported Basis*

EFFECTIVE DATE: September 18, 2009

RETRO-DATE: Full Prior Acts

LIMITS OF LIABILITY: \$1,000,000 Each Claim / \$1,000,000 Policy Period Aggregate

DEDUCTIBLE: \$50,000 Each Claim

DEFENSE COSTS: Inside the Limits of Liability

POLICY FORMS & ENDORSEMENTS:

- ◆ F327 (12/1998) Declarations
- ◆ F328 (12/1998) Forms and Endorsements Summary
- ◆ F279 (12/1998) Public Officials Policy
- ◆ F286 (12/1998) Public Officials Application
- ◆ NAA-105 (01/2003) Privacy Notice (new form)
- ◆ EXA-255 (02/2001) Indoor Air Quality Exclusion
- ◆ F368 (12/1998) Ohio Amendatory Endorsement
- ◆ F354 (12/1998) Ohio Notice (Non-Admitted Carrier)
- ◆ F260 (12/1998) Excluded Entities (As Expiring)
- ◆ F237 (12/1998) Contractual Liability Exclusion
- ◆ SC-9 (02/1998) Service of Suit

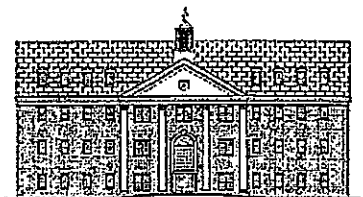
SUBJECT TO:

- ◆ Original Notarized Ohio Surplus Lines Affidavit.

**TOTAL POLICY COST: \$24,956.25 (\$23,625 Annual Premium - Minimum & Deposit + \$150
Policy Fee + \$1,181.25 Ohio 5% Surplus Lines Tax)**
Terrorism coverage is not available.

Domestic Headquarters
Old Forge Centre
20595 Lorain Road
Fairview Park, OH 44126

Phone: 440.333.6300
Wats: 800.545.1538
Fax: 440.333.3214
www.mcgowanpcg.com



Domestic Headquarters

Property & Casualty
2100 Stella Court
Columbus, OH 43215-1067
(614) 644-2668
(614) 728-1280
www.ohioinsurance.gov

Ohio Department of Insurance
Ted Strickland -- Governor
Mary Jo Hudson -- Director



Surplus Lines Affidavit of Originating Agent

PART 1. STATEMENT OF SURPLUS LINE BROKER OR ORIGINATING AGENT

COLIN DEAN acknowledges that he/she is a duly licensed full multiple line agent currently licensed with insurance companies, other than life, authorized to do business in Ohio or he/she is a duly licensed surplus line broker pursuant to Section 3905.30 of the Ohio Revised Code and that after due diligence, he/she is unable to procure the insurance policy described below from insurers authorized to do business in Ohio to which he/she is a licensed agent.

Property or risk to be insured: PUBLIC OFFICIALS LIABILITY

He/she acknowledges that he/she has complied with the applicable requirements of due diligence as set forth in Ohio Revised Code 3905.33, and has explained to the insured the meaning of the affidavits prior to binding coverage and received declinations for the reasons set forth below from the following authorized insurer(s) to which he/she is so licensed and which are known to him/her to customarily write the kind of insurance described above.

INSURERS	REASONS
1. <u>STATE AUTO</u>	<u>DOES NOT MEET GUIDELINES</u>
2. <u>WESTFIELD</u>	
3. <u>FRANKENMUTH</u>	
4. <u>HARLEYSVILLE</u>	
5. <u>SAFECO</u>	

[Signature]
Signature of Surplus Line Broker or Originating Agent

PART 2. AFFIDAVIT OF INSURED AS REQUIRED BY SECTION 3905.33 OF THE OHIO REVISED CODE

The named insured CLEVELAND PUBLIC LIBRARY, being duly sworn, says and acknowledges that the insurance policy (other than life insurance) as described above is to be placed with an insurance company not authorized to do business in Ohio. The insured understands that the insurance company is not a member of the Ohio Insurance Guaranty Association and that Chapter 3955 of the Ohio Revised Code is not applicable to claimants or insureds of said insurance company. The surplus line broker shall collect the Ohio tax of five percent of the amount of the premium for the insurance policy at the time the insurance policy is delivered to the insured.

CLEVELAND PUBLIC LIBRARY
Name of Insured

By: _____
Name and Title

Sworn to before me and subscribed in my presence the ___ day of _____, ____.

My commission expires _____
Signature of Notary

330/659-3142
(FAX) 330/659-6241

CRAIN, LANGNER & CO.

ANALYSTS AND CONSULTANTS
RISK AND INSURANCE MANAGEMENT
3728 WAITLEY DRIVE
P.O. BOX 531
RICHFIELD, OH 44286

VIA E-MAIL TRANSMISSION

Hard Copy to Follow

11 September 2009

H. Sandra Kuban
Finance Administrator
Cleveland Public Library
Financial Services Department
325 Superior Avenue
Cleveland, Ohio 44114

Re: Public Officials Insurance - RENEWAL

United National Insurance Company
Policy No. POL B17386
Effective 9/18/09 - 9/18/10

Dear Ms. Kuban:

We reviewed the proposal materials regarding the above-captioned Public Officials Liability insurance policy.

In sum, we recommend the purchase of coverage from United National Insurance Company as proposed by Colin Dean of McGowan & Co. Our comments follow below.

1. Renewal Marketing – Colin Dean presented one proposal from the incumbent United National Insurance Company. United National was the only insurer who proposed coverage last year as well. Colin Dean approached four other insurers this year (Darwin, RSUI/Landmark, Chartis/AIG, and Scottsdale), each of which declined to quote coverage due their inability to be price competitive and the Library's history of past claim payments and reported EEOC filings. The current policy represents the seventh consecutive year coverage has been placed by United National, with terms and conditions remaining substantially the same over that period.

United National Insurance Company is part of the United America Indemnity, Ltd. and is rated A, XI by AM Best Co.

We are pleased Mr. Dean sought competitive proposals but regret that none offered a quotation. The decision to seek competitive proposals, or not, for the 2010 renewal should be revisited early summer 2010.

CRAIN, LANGNER & CO.

Ms. H Sandra Kuban
 Cleveland Public Library
 11 September 2009
 Page 2

2. Renewal Proposal and Terms - Expiring and proposed coverage are the same and depicted as follows:

	Expiring United National	Proposed United National
	Policy Period 9/18/08 - 09	Policy Period 9/18/09 - 10
Limit of Liability	\$1,000,000 each claim \$1,000,000 annual aggregate	\$1,000,000 each claim \$1,000,000 annual aggregate
Deductible	\$ 50,000 each claim	\$ 50,000 each claim
Trigger	Claims-made	Claims-made
Retroactive Date	None, full prior acts	None, full prior acts
Premium	\$23,625.00	\$23,625.00
Ohio Surplus Lines Tax	\$ 1,181.25	\$ 1,181.25
Policy Fee	\$ 150.00	\$ 150.00
Total	\$24,956.25	\$24,956.25

United National is an excess and surplus lines insurer. Therefore, insureds covered under policies issued in Ohio pay a 5% Ohio Excess and Surplus lines tax and are not covered by the Ohio Insurance Guarantee Association (OIGA). The OIGA operates to provide up to \$300,000 of coverage per claim for claims filed against an insurer that becomes insolvent. If the insurer cannot honor its obligations the OIGA will provide some backstop coverage. However, this protection is not available to insureds whose net worth exceeds \$50,000,000. Inasmuch as the Library's net worth exceeds this amount, the OIGA protection described above would not appear to be available to the Library.

The quoted renewal reflects a flat premium which is considered a favorable outcome this year. The following chart shows account history.

Insurer	Policy Period	Total Costs	Dollar Change	Percent Change	Limit of Liability	Deduct
Coregis	1999/00	\$10,679	---	---	\$1M/\$1M	\$10,000
Coregis	2000/01	\$12,227	\$1,548	14%	\$1M/\$1M	\$10,000
Coregis	2001/02	\$17,359	\$5,132	42%	\$1M/\$1M	\$10,000
United Natl	2002/03	\$20,650	\$3,291	19%	\$1M/\$1M	\$25,000
United Natl	2003/04	\$22,250	\$1,600	8%	\$1M/\$1M	\$25,000
United Natl	2004/05	\$23,438	\$1,188	5%	\$1M/\$1M	\$25,000
United Natl	2005/06	\$30,265	\$5,362	23%	\$1M/\$1M	\$50,000
United Natl	2006/07	\$30,390	\$ 125	0%	\$1M/\$1M	\$50,000
United Natl	2007/08	\$24,825	-\$5,565	-18%	\$1M/\$1M	\$50,000
United Natl	2008/09	\$24,956.25	+131	.05%	\$1M/\$1M	\$50,000
<u>Proposal for 2009/10</u>						
United Natl	2009/10	\$24,956.25	+0	0%	\$1M/\$1M	\$50,000

CRAIN, LANGNER & CO.

Ms. H Sandra Kuban
Cleveland Public Library
11 September 2009
Page 3

3. Coverage Comments

a. Limit of Liability and Defense Costs

The proposed \$1,000,000 limit of liability is significant and includes both defense and indemnity (damages) costs. The limit applies to all types of claims filed under the policy, including Employment Practices Liability claims.

b. Deductible

The policy has carried a \$50,000 each claim deductible since the 2005 renewal. The deductible applies to each claim without aggregate. This means that every claim will be subject to a \$50,000 deductible. Although we would prefer to see a lower deductible, we can support the continued use of a \$50,000 deductible in the program provided the Library maintains sound practices, policies and procedures regarding the actions of the board, employees and volunteers, *e.g.*, employment practices and human resource procedures. At this juncture, Mr. Dean has approached the insurer requesting an option for a lower deductible, but he has not yet received a response. We would expect that any program with a lower deductible, say \$25,000 per claim, would require a higher premium that, given on-going financial constraints, may not be practical for the Library at this time.

c. Non-Monetary Damages

The United National policy excludes coverage for claims seeking other than money damages, *i.e.*, non-monetary relief.

d. Duty to Defend

United National does not have the duty to defend any claim against the Library, although it may join the Library in the defense of a claim. Thus, the Library should retain its own counsel if a claim is filed, notice the insurer of any claim as soon as possible, obtain the insurer's written consent of the selected attorney (required by the policy), and keep the insurer informed of claim developments.

Given the \$50,000 retention, we support the Library controlling the defense of claims and having the insurer pay those defense costs on behalf of the Library. This is the arrangement found in the United National policy.

CRAIN, LANGNER & CO.

Ms. H Sandra Kuban
Cleveland Public Library
11 September 2009
Page 4

e. Notice of Occurrence, Incident

In the past we have asked the Library's insurance agent, Colin Dean, to request that the policy be endorsed to provide that notice to a particular person must take place before knowledge of an occurrence or claim is imputed to the Library. That is, either you, the Executive Director or some other officer or director should have to have knowledge before the insurer can conclude the Library had knowledge of a circumstance or claim. This arrangement protects against a staff person learning of something, not telling anyone, and a claim arises later. The insurer could attempt to deny coverage asserting that the Library knew of the circumstance at the time the staff person knew even if senior management was never advised until much later. In the past, Mr. Dean reported that the insurer will not accommodate this request. It is recommended that the Library continue to have and use occurrence and incident reporting procedures to ensure timely notification and investigation of matters. Mr. Dean has also approached the insurer on this policy term as well. He has advised that it is not likely the insurer will accommodate this request and will report to me the insurer's response once received.

Other questions relating to this coverage may exist or arise. This letter does not address every potential issue, and reference to the proposal and actual policy is recommended with respect to policy terms, conditions, limitations, and exclusions.

We will advise you of the insurer's responses to the deductible and notice of occurrence questions upon receipt.

We support the purchase of this coverage and remain available to answer any questions you may have.

Thank you.

Sincerely,

Daniel C. Buser

Daniel C. Buser

DCB/mtf
09 dcb 0035 cpl

The information contained in this E-mail message is confidential, may be privileged, and is intended for the use of the individual or entity named above. If you, the reader of this message, are not the intended recipient, the agent, or employee responsible for delivering this transmission to the intended recipient, you are expressly prohibited from copying, disseminating, distributing, or in any other way using any of the information contained in this E-mail message.