Neverland

an aviation insurance fable

BY PETER J. ROKER, CIP

Neverland is a magical place, set in the minds of children, where dreams come true and people cease to age. With the increasing trend of civil litigation in the aviation industry, Neverland is no place for sophisticated business owners of maintenance repair shops, manufacturers, or distributors of aircraft parts. Deny this reality, and you're relying on nothing more than Tinkerbell and her magic pixy dust to protect your business from certain catastrophic ruin when Captain Hook comes knocking on your door.

The narcotic properties of Neverland are difficult to understand. Even the most sophisticated businessmen can be lulled into a false sense of security. Neverland is a magical place where make believe is encouraged and insurance protection is seen as an unnecessary evil. It is a land where business is conducted on the here and now and little regard held for the preservation of respected reputations earned. If you haven't been to Neverland it's surprisingly easy to find – it's the second star to the right and straight on until morning.

With Captain Hook taking residence off the shores of Neverland, it's difficult to understand why the inhabitants of the island resist the temptation to protect themselves. Perhaps they resigned themselves to a perceived reality that Captain Hook's attack is inevitable and when it comes it will be with devastating consequence. Or maybe life on Neverland is just so good the inhabitants would sooner frolic with fairies and mermaids than worry about a dismal future they feel will never occur. In dreamland all you have to do is believe, right?

Unfortunately, though, all dreams come to an end and eventually you have to wake up and face the reality of the world around you. There are a number of common perils that threaten the financial assets of everyone's business such as fire, lightning, hail, flood, windstorm, sewer backup, and theft which are commonly offset with the placement of a standard All Perils Commercial Property Policy, but what about the devastating consequence of unforeseen third party litigation stemming from your participation in one of the most catastrophic industries in the world – aviation?

Third party litigation is the Captain Hook threatening the livelihood of aviation business on Neverland, with premises exposures unique to airport operations evident, responsibility for the safekeeping of high valued aircraft entrusted in your care, and the products or services you provide which are released to the public and stretch your liability exposure to anywhere in the world. Rather than choosing to deny the reality of these risk exposures, they can be effectively handled with the guidance of a qualified aviation insurance broker and protected under a cost-effective Aviation General Liability (AGL) policy. I suppose in Neverland your aviation insurance broker would be Peter Pan, the fearless leader of the Lost Boys.

The aviation insurance industry has been caught in perhaps the longest sustained soft market trend in history where insurance capacity remains strong and underwriting appetite is large. With insurance rates as low as they are, there has never been a better time for the inhabitants of Neverland to consider protection from the looming presence of Captain Hook. If you already have an Aviation General Liability (AGL) policy, then now is the time to review your portfolio and look for ways to bolster coverage in areas where your business has been traditionally exposed. If you are a first time insurance buyer then perhaps now may be your only opportunity to obtain an Aviation General Liability (AGL) policy because when the insurance market hardens (and it will), the limited number of insurance companies available will become increasingly reluctant to assume the risks of an aviation business with no insurance history. After all, if the inhabitants of Neverland refused to take their aviation operations seriously during a soft market then why should an underwriter take your business seriously in a hard market, right?

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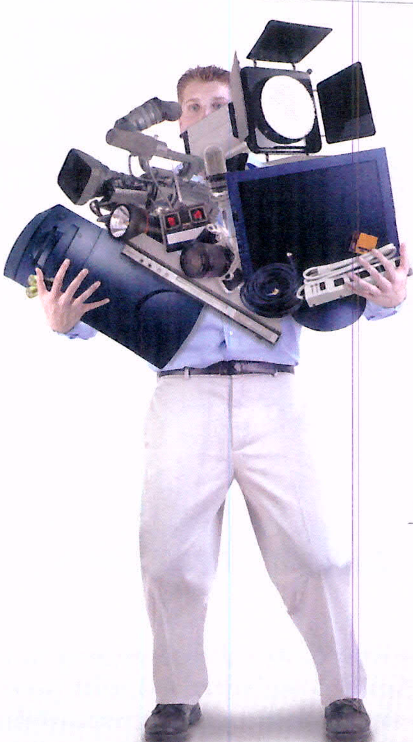

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Whether you are an aircraft maintenance, repair and overhaul facility providing expert services to aircraft owners, or an aircraft manufacturer or parts distributor supplying product to the aviation community, an Aviation General Liability (AGL) policy is a cost effective risk transfer tool designed to eliminate the catastrophic consequence of unnecessary financial ruin to your business and when reviewing these coverages it's important to have Peter Pan explain the differences of all the products available to you in the marketplace. With that said, the majority, if not all, aviation insurance companies offer three standard areas of coverage under the Aviation General Liability (AGL) policy and they include: (1) Airport Premises Liability, (2) Hangarkeepers Liability and (3) Products or Completed Operations Liability. The coverages can be packaged together with varying policy limits or they can be purchased individually. Let's examine each of these coverages, bearing in mind that insurance protection is now very affordable, and see if Peter Pan can return some reality to those living in Neverland.

The purpose of Airport Premises Liability coverage is to protect the owner, operator, or tenant of an airport against third party bodily injury and property damage because of legal liability due to the ownership, maintenance or use of the airport premises. This coverage generally comprises all ordinary premises hazards, including those caused by aircraft except (1) aircraft owned, hired by, or loaned to the insured (you); (2) aircraft in flight by or for the account of the insured (you); and (3) airmeets, contests, or exhibitions. There are several rating criteria in determining the premiums charged for this coverage, which may include:

- Policy limits requested (a $2-million policy limit will cost more than a $1-million limit)
- Deductibles (higher deductible amounts reduce an insurers exposure and lowers your premium)
- Volume of third party traffic accessing your airport facility
- Quality of general upkeep and maintenance of your facility

Hangarkeepers Liability coverage is basically a form of bailee coverage, and provides protection for liability incurred as a result of loss or damage to a third party aircraft in your care, custody or control.

The definition of an "aircraft" generally means any aircraft including component parts, operating and navigation instruments and radio equipment including parts temporarily detached and not replaced by other similar parts. This coverage generally contains a limited number of exclusions, with the most noteworthy of these relating to service or product hazards of your operation. For example, damage to materials or faulty work that result in an accident is not covered. The purpose of this exclusion is to keep the policy from covering your obligations to correct defective or unsatisfactory workmanship or to replace defective materials.

Hangarkeepers Liability is written on a per aircraft and per occurrence limit so it's important to ensure policy limits are reflective of at least the average value of any one aircraft as well as the average value of all aircraft in your care at any given time. There are many underwriting criteria used to determine the premiums charged for this coverage and commonly include:

- Value of aircraft typically in your care
- The total number of aircraft typically in your care
- The type of aircraft typically in your care
- The construction of the facility where you have the aircraft in your care
- The quality of staff working on your aircraft
- The general upkeep and maintenance of your facility
- History of hangar rash incidents
- Number of aircraft movements in and out of your facility
- Do you share or lease your hangar space with other businesses
- Whether you require "Ground Risks" only, or "In-Flight Risk" coverage
- Deductible amount chosen

When referring Products or Completed Operations Liability it should be understood that "Products" coverage is different from "Completed Operations" coverage, as they generally apply to two different types of operations. "Products" coverage is applicable to those who manufacture or market aircraft products and components to be sold to members of the public while "Completed Operations" coverage is applicable primarily to establishments that engage in servicing, installation and repair work, such as fixed base operators or maintenance cleaning.

Products or Completed Operations Liability coverage is designed to pay for bodily injury or property damage to the public for an occurrence resulting from either a mistake in the manufacturing or preparation of an aviation product or from the rendering of the service work you performed. This coverage applies for as long as the incident occurred (1) away from your premises and (2) you have relinquished your product or service to others. Because the territory of this coverage extends anywhere in the world, the exposures emanating from this portion of your business can be significant, accordingly the premiums charged for this protection are typically the most expensive of the three coverages forming the Aviation General Liability (AGL) policy. As to be expected, the rating criteria in determining premium for Products and Completed Operations Liability coverage can be extensive, but those most common may include:

- The type of service(s) or product(s) you provide to the public
- The qualifications of staff either providing your service(s) or producing your product(s)
- The revenues your business generates from the service(s) or product(s) you supply
- Quality control measures in place
- The size and nature of the client(s) you serve

So as we conclude our fabled tale of Neverland, the inhabitants of our magical land ultimately woke up in time to face the legitimate threat of Captain Hook and discovered the potential of his attack was not only real but could be easily defeated with the help of our spandex clad hero, Peter Pan. And with this knowledge, the inhabitants of Neverland were no longer vulnerable, so our defeated Captain Hook pulled up anchor and the Jolly Roger slowly faded into the sunset in search of yet another victim. Next stop, perhaps Alice in Wonderland – I'll let you decide, but rest assured, Captain Hook will never return to your fantasyland again. ■