

EDITORS' INTRODUCTION

Bond defaults—claimed and actual—are at the core of what many members of the ABA/TIPS Fidelity and Surety Law Committee (“FSLC”) do. Therefore, it was not surprising that the FSLC (one of the most active ABA committees) decided to create and disseminate a “manual” addressing how to investigate, analyze, and respond to bond default claims. The original *BOND DEFAULT MANUAL* (circa 1987) had five chapters and was all of 187 pages long, including the forms. As noted in its Introduction: “Although many scholarly papers have been prepared and delivered on these topics, the Committee perceived a need among its members for a single comprehensive resource which would provide the insight and address the basic information and techniques involved in performance bond claims handling.” The *BOND DEFAULT MANUAL* quickly became an indispensable resource for many company claim professionals, outside counsel, and consultants. Its popularity and utility were confirmed by subsequent FSLC decisions to prepare and provide updated second (1995) and third (2005) editions.

What you hold in your hands (or are reading in an electronic version), *BOND DEFAULT MANUAL*, 4TH ED., consists of two full volumes: Volume I has thirteen substantive chapters, totaling more than 900 pages; Volume II nearly 50 forms. It is an outstanding compilation of the scholarship, experience, and expertise of an all-star group of surety practitioner/authors. This fourth edition also benefits from the invaluable contributions of equally stellar panels of company claim handling professionals and outside consultants.

We fully expect that *BOND DEFAULT MANUAL*, 4TH ED., like its predecessors, will be a “go-to” resource for all surety professionals—whether seasoned or just starting out, whether in-house or in private practice. In addition to updating pre-existing chapters and forms, this new edition adds forms and adds chapters on the construction contract provisions critical to the performing surety, the surety’s relationship with the completion contractor and the principal’s subcontractors and suppliers, and the performing surety’s additional obligations and opportunities for mitigation and reduction of loss.

No single publication can provide every case or argument that the reader may want or need to respond to the particular facts, circumstances, and jurisdiction relevant to a specific case. Moreover, legal developments arise constantly. Nor can any generic form or set of forms hope or claim to provide a complete or adequate response to real world facts and circumstances. As such, the editors, contributors, and advisors to this book do not, and cannot, warrant or represent that this book is complete or accurate in every way or with respect to any claim or circumstance that a reader may encounter. This book is provided as a starting point, not as a final answer or as a comprehensive compilation of answers or responses to specific circumstances.

We would be remiss in not giving special thanks to several people without whom this book would not be in existence. First, we extend our thanks to Richard S. Wisner, Editor of the first edition, Duncan L. Clore, Editor of the second edition, and Duncan L. Clore, Richard E. Towle, and Michael J. Sugar, Jr., Editors of the third edition, for their foresight and wisdom upon which BOND DEFAULT MANUAL is founded. Next, as with many FSLC publications over the past twenty years, we must thank George J. Bachrach for his thoughtful inspiration behind the structure, organization, and substance of the book and his continued devotion to all things FSLC. Finally, we are grateful to Richard L. Levesque for the reasons set out in the Editors' Introduction to Volume II.

Finally, the editors give their thanks and appreciation to all of the contributors and advisors who have provided freely and deeply of their time and efforts to allow the preparation and publication of this book. The editors give their special thanks and appreciation to Claudia K. Dwyer of Sedgwick LLP for her untiring efforts, expertise, and good cheer in putting together all of the final pieces, as well as the support of Mayra Montalvo and the Word Processing Department of Sedgwick LLP for their hard, detailed work to finalize the book for publication.

The Editors

Mike F. Pipkin
Carol Z. Smith
Thomas J. Vollbrecht
J. Blake Wilcox

May 2015

EDITORS' INTRODUCTION TO VOLUME II

Truly, the introduction to Volume II of *BOND DEFAULT MANUAL*, 4TH ED. is more of a statement of conditions with respect to what follows, a disclaimer if you will, than an actual introduction. While the exemplar forms contained herein are the result of the hard work of our chapter authors, further subjected to exhaustive review and editing (as discussed below), they still are exemplars from which the surety practitioner can work. Because no two defaults are exactly alike, each one of these forms is just a starting point. Coupled with the text of *BOND DEFAULT MANUAL*, 4TH ED., as well as many other sources for information and ideas that can be applied to the specific fact situation, these forms can be molded and shaped so that they fit all of the relevant factors and address each of the issues that may arise.

In addition to the authors of these exemplary exemplars (if you will), we must also extend our special thanks to Richard L. Levesque of Hartford Bond. Rick gave no less than seven full days to this effort, holed up in conference rooms in Seattle and Dallas, reading, reading again, and vetting each and every sentence against his decades of experience in the surety industry, followed by more review and discussion. His dedication to excellence is reflected in the final product, and we are forever grateful for his commitment of time and energy.

The Editors

Mike F. Pipkin
Carol Z. Smith
Thomas J. Vollbrecht
J. Blake Wilcox

May 2015