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Chapter  
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11771

# Greater New York Contractors' NEWS



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APRIL 2015

## President's Message



**Marc Soffler**

Spring has finally arrived, and now it's time to do a little spring cleaning to prepare for the start of summer. Rotate your service vehicles back to the office and review their inventory. Start by cleaning out the trucks and removing the unwanted items. Replenish the trucks with items that will be most useful to perform spring inspections and deal with the upcoming heat of the summer. Developing a summer/winter parts list and properly maintaining truck inventory will prove to make your service fleet more efficient and more profitable.

For those of you who have not attended a recent monthly meeting,

*Turn to President's Message on page 4*

**Membership Meeting  
Thursday, April 9**

# Financial Management Series 2

Presented by

**Wayne Atkins**

The "HVAC Business Doctor"

*See page 7*

## **Westbury Manor**

1100 Jericho Turnpike Westbury, NY 11590

**Cocktails at 5:30 pm; Dinner at 6:30 pm**

**Register Online at [www.accany.org](http://www.accany.org)**

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## Special Notice

# COMING WITH OUR MAY 2015 ISSUE The GNY ACCA News Online

Next month you will receive your May issue of the Greater New York ACCA Newsletter via your email. When you open your email, the cover of the issue will appear and you simply click on it to bring up the entire issue in pdf format. We believe this will lend more flexibility, ease of reading and archiving convenience.

Also, the issue will contain interactive hyperlinks to advertisers' websites and to referenced content. The online issue will also give us an opportunity to add color as desired.

The normal print format will resume in June.

## ACCA Greater NY Chapter

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**Membership:** Chair: James Padavan, Co-Chair: Greg Reddock

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Scott Matalovich, Stu Ellert

**Web Page:** Chair: Marc Soffler

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**Charitable Works:** John Ottaviano

**Holiday Party:** Anthony Carbone

**Newsletter:** Chair: Anthony Carbone

**Past President:** Chair: Harvey Stoller, Co-Chair: Roy Bernheimer

Greater New York Contractors' News is printed monthly by the Greater New York Chapter of ACCA. Questions should be directed to the appropriate director or committee member for assistance. While this newsletter is designed to provide accurate and authoritative information on the subjects covered, the Association is not engaged in rendering legal, accounting, or other professional or

technical advice. Accordingly, the Association cannot warrant the accuracy of the information contained in this newsletter and disclaims any and all liability which may result from publication of or reliance on the information provided herein. If legal advice or other expert assistance or advice is required, the services of a competent, professional person should be sought.

ACCA board members at work at Vivaldi's restaurant before the March 12th membership meeting. The program was moved from March 5th because of the inclement weather. Want to become more active? Contact the ACCA office at 516-922-5832.



## Editor's Notes

by Anthony N. Carbone

The residential service call has become somewhat challenging for contractors these days. The complexity when it comes to pricing the parts, as many clients will ask to keep the old parts.

Well, there is a philosophy to this. It's not just to be sure that the part in fact, has failed or truly has been repaired, but to get the part number and search for the cost on the internet.

They want to see what the parts cost and how much the contractor's mark-up is on it. There is way more than just replacing the identified part that was revealed through a practical diagnostic procedure. It is the expertise of the trained technician that brings about the specific repair.

On top of this, there is the guarantee of the part and the tremendous overhead that allows the journey of the service call to begin.

From the call to the office that is answered and dispatched with a stocked, insured truck with hundreds of possible parts to the trained, salaried technician that has medical insurance, workmen's compensation, general liability insurance, home improvement licenses... and the list goes on.

So, the homeowner thinks he is getting ripped off. Some consumers have gone as far as saying, "I found the part online, I'm going to purchase it and give it to you, so subtract the entire cost from your bill." Well, I tried that at a fancy steak house and I assure you that it did not fly.

It's insanely disrespectful to our trade that consumers try to minimize the talents of the trained tech and the company that they represent.

What is your opinion of this ongoing problem? I have resolved many of these situations by speaking to each client who brings this topic up. Many technicians don't have the skill to negotiate through this. — *Anthony N. Carbone*

### PRESIDENT'S MESSAGE *Continued from page 1*

you are definitely missing out on programming that directly benefits your business. Each month we invite speakers to present topics that focus on business development. So far this year, our topics have included improving customer service, sales training, and taking advantage of utility rebates to increase sales.

We are also enhancing our Educational Workshops by inviting our speakers to present half day seminars to further educate your employees and help implement these important business skills.

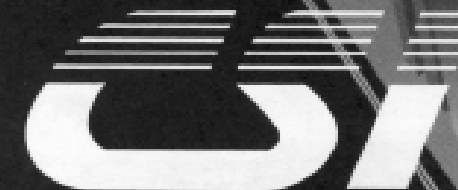
I would like to thank Jeff Goldberg and Randi Busse for speaking at our last meeting. Their presentation on improving the customer experience and sales training techniques are important topics and I'm planning on sending several employees to attend their workshop which will be held at Wales Darby in Islandia, New York on April 21st.

Please visit our website on a regular basis ([www.accany.org](http://www.accany.org)) to stay informed about upcoming events. [www.accany.org](http://www.accany.org).

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## ACCA Approves CalcuNow App as Manual J Block Load Compliant

ACCA has recognized CalcuNow.com's "Manual J Residential Block Load" online app as compliant with Manual J block load calculation procedures.

To become recognized, ACCA reviewed the app's functionality, sensitivities, defaults, and capabilities to ensure that CalcuNow.com's "Manual J Residential Block Load" meets the procedures and requirements of ANSI/ACCA 2 Manual J - 2011 (Residential Load Calculation).

The CalcuNow.com app is only recognized for "block loads" for existing home replacements where room-by-room loads are not required in accordance with ACCA Manual J.

ACCA continues to remind contractors that only software listed as approved by ACCA at <http://www.acca.org/software> is considered compliant with Manual J. Load calculation software and procedures that are not listed on that website cannot be considered to be properly observing Manual J's procedures, methodologies, and defaults.


Manual J is a registered federal trademark of ACCA. •

## Chapter To Offer 2015 Scholarship Program

Once again, the Greater New York Chapter of ACCA will issue academic scholarships to deserving individuals.

2015 recipients will be selected from various companies, high schools, technical colleges, colleges and universities who plan to enter the Mechanical/HVAC Industry upon graduation.

Those interested should go to our website at [www.accany.org](http://www.accany.org) for more information and an application. •



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## Membership Meeting on Thursday, April 9th



### Wayne Atkins the "HVAC Business Doctor" will present his Financial Management Program

Wayne Atkins has worked with hundreds of HVAC contractors throughout the past 30 years helping them successfully navigate through Proper Cash Management. His program takes in Cash Flow Projections, Credit - Terms, Policies & Procedures, Billing Techniques and Credit & Collection Programs.

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Plan to be there on Thursday, April 9th

at the Westbury Manor. Cocktails at 5:30 pm; Dinner at 6:30 pm.

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## People & The Workplace

By Alan B. Pearl,  
Portnoy, Messinger, Pearl & Associates, Inc., Syosset, NY  
516-921-3400, Fax 516-921-6774 e-mail: ABPearl@pmpHR.com,  
Website: www.pmpHR.com

### The Cost of Getting Even

Although “sexual harassment” often makes the news, less publicized “retaliation” claims are far more prevalent, and often result in large payouts to the accuser.

Retaliation claims have increased sharply over the past years. The EEOC has recently released its 2014 Fiscal Year litigation data and retaliation leads all other charges filed. In FY 2014, EEOC received 37,955 charges (42.8% of all charges filed) for retaliation. Race (including racial harassment) accounted for 35% of the charges filed while sexual harassment (including pregnancy) accounted for 29.3% of the charges, disability (28.6%) and age (23.2%) discriminations are next in line.

What is retaliation and why are there so many charges filed? It is illegal to “retaliate” against applicants, employees or former employees because they have filed a charge of discrimination, filed a whistleblowing charge, complained to their employer or other entity

about their supervisor or manager, have complained about discrimination in the workplace or because of participation in an employment discrimination investigation or proceeding. The law forbids retaliation when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, and fringe benefits. Supreme Court decisions have resulted in a lower threshold for establishing a claim of retaliation, and increased potential damages. Retaliation claims are easier to prove than other discrimination charges. In many cases, the plaintiff has failed on the initial claim yet prevailed on the retaliation claim.

What can you do to protect your company? There are three important steps your company should be taking now to reduce the risk and better defend itself against retaliation claims.

1. **Policies and Procedures:** Assure that your anti-harassment and anti-discrimination policies contain a strong anti-retaliation clause. This may involve updating your handbook. Additionally, assure that your discipline and termination policies are understood by your managers and fairly enforced.

2. **Training:** Training is critical. Managers should receive anti-harassment/discrimination/retaliation training on a regular basis to ensure they know how to identify and prevent such behavior in the workplace, and how to fairly apply relevant company policies. Additionally, training your management team on how to effectively promote two-way communication with employees is essential. Training will not only assist in producing better managers, but also in creating a happier work environment.

3. **Listen to Employees:** Employees should have several “go-to people” to raise concerns, without feeling intimidated or threatened. Don’t ignore any complaint! Follow-up with the employee after the company or HR has reviewed their concern. The company (or HR) should assure that the employee has not been treated differently as a result of the complaint and that any inappropriate behavior is identified and prevented from occurring again.

### Annual New York Wage Theft Prevention Notice Requirement

On December 29, 2014, Governor Cuomo signed into law an amendment to the New York State Wage Theft Prevention Act. Which repeals the requirement of annual notices of wages to all current employees. Prior to this repeal employers were required to notify their employees in writing of their wage rates each January.

The amendment relieves employers of this widely criticized requirement. The amendment to repeal had

been circulating within the New York State government for the past year, but it is now finally law. Although the repeal does not officially take effect until February 27, 2015, the Department of Labor has publicly stated that, “given the pending enactment of this chapter amendment, the Department will not require annual statements in 2015.” Thus, employers need not distribute Wage Theft Prevention Act Notices this year to current employees.

Employers are still required to provide pay notices to new hires, and for current employees following a change in their wage rate. Moreover, the amendments actually increase the penalties for failing to provide required notices.

Overall this is a positive development for employers who are now relieved of the burden and headache of providing annual notices. However, due to increased penalties, employers should assure that all new hires are given the “Wage Theft Prevention” pay notices, and that their wage statements (pay check stubs) show all required information.

If you need any assistance with regard to this or any other labor or employment matter please contact me at [abp@pmpHR.com](mailto:abp@pmpHR.com) or (516) 921-3400. •

## WELCOME NEW MEMBER

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**Statement From  
Stuart S. Zisholtz, Esq.**

**Minority and Women  
Businesses Enterprises**

Minority and Women Business Enterprises (MBE or WBE) is a concept developed to encourage competition and new jobs, etc., particularly in the areas of minorities and women in the construction industry.

Not surprisingly, abuses have crept into the industry.

Some MBE and WBE corporations attempt to farm out contracts to non-minority contractors in return for a percentage of the profits. The New York District Attorney is cracking down on that arrangement and pursuing criminal prosecution of perpetrators for fraudulent schemes.

The general idea is the work has to be performed by a minority corporation because that was the whole purpose of the legislation. If the minority corporation is going to act as a broker, not due any of the work, and pass the contract to a non-minority corporation, the

purpose of the legislation collapses.  
If you want to get involved in any of these enterprises, I urge you to review the situation very carefully and make sure that you are on the right side of the law.  
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For a free copy of our pamphlet pertaining to mechanic's liens and payment bond claims, kindly contact me or the Association.

*Stuart S. Zisholtz is a partner in the law firm of Zisholtz & Zisholtz, Mineola, New York, a general practice firm specializing in Construction Law and Mechanic's Liens. He is also a member of the Greater New York Chapter, ACCA. He can be reached at 516-741-2200.*

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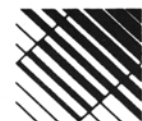
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