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Greater New York Contractors' NEWS



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January 2009

President's Message

Our January meeting was a great success, and I would like to thank all of you who attended. Our guest speaker was Dr. Richard J. Atkins of Improving Communications, LLC. He explained how communications problems waste the time and money of businesses. His presentation explained the training programs offered by his company in writing, public speaking, customer service, leadership development and personal development. Please visit www.improvingcommunications.com for more information on these programs and the availability of motivational speak-



Ron Nathan

Turn to President's Message on page 3

You Are Invited To Our FEBRUARY MEETING

Louis Karol

Noted speaker and principal of the Garden City law firm of Karol, Hausman, Sosnik will offer the latest information on a topic of importance to every business owner:

Proposed Estate Tax Law Changes Under The Obama Administration *Passing Your Business to Children and Key Employees*

THURSDAY, FEBRUARY 12, 2009
at the Westbury Manor

Cocktails — 5:30 pm; Dinner — 6:30 pm

Followed Immediately by the program

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PRESIDENT'S MESSAGE *Continued from page 1*

ers who can address your employees.

February may be the shortest month, but there is a lot going on with ACCA to help you get ready for our busiest season. I would like to welcome our newest contractor members, J Mar Controls Inc., Airplus Heating & Cooling and Giant Mechanical Systems. If you have not yet joined ACCA, please be sure to visit www.acca.org to browse some of the many benefits available to members. Click through the tabs across the top of the home page to explore ACCA's business services, technical services, news & publications, educational and certification programs, and outreach & advocacy assistance. There are industry links available, as well as an online store and the ACCA Insider for weekly business tips and news. Contractor Excellence Magazine is available to ACCA members only. You can access it on the website or wait for the latest issue to be delivered to your mailbox.

The 2009 ACCA Conference and Indoor Air Expo will be held from February 24-26 at the Fort Worth Convention Center in Fort Worth, Texas. This year's theme is "Turn It Up!" and the program schedule has been determined by contractor members' survey responses. There will be a Town Hall Meeting and "I've

Got an Idea" session where you can network and share your best business ideas with other contractors. Twenty-five breakout workshops will include topics such as taming insurance premiums, lowering vehicle costs, commercial service agreements, ways to find and keep great employees, service repair estimating, and techniques for measuring customer satisfaction.

In addition, the vast Indoor Air Expo will give you access to numerous sponsors, suppliers, contractors, and indoor air quality specialists who are eager to discuss the latest industry advances with you. Check the national ACCA website for the ever-growing list of exhibitors.

The Opening Session will include a presentation by Eric Chester on "Generation Why". Connecting with the younger generation is the key to finding and keeping great employees, and your front line is central to your bottom line. The General Session will feature the program "True Teamwork" presented in an unexpected and entertaining fashion by the Passing Zone. This unusual duo has broken five Guinness world records, won eighteen gold medals, and has appeared on TV, in films and at Las Vegas venues. Do I have your interest yet? Hope to see you in Texas! — **Ron Nathan**

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Editor's Notes

By Anthony N. Carbone

Welcome to the heart of winter, where temperatures are hitting single digits and phones are ringing for services as needed for emergency breakdowns, and possibly, dreaded replacements.

The economy is as frigid as the weather. With the hope of a new beginning, the media may step back from the doom and gloom reporting to focus on the task at hand President Obama is facing.

This past January, our speaker was Dr. Richard Atkins, who is a professional communications expert. I had met Dr. Atkins over the phone, when he inquired about doing an oil-to-gas conversion of his home heating equipment. Dr. Atkins was precise and courteous in his questions regarding my heating proposal. He executed each part of the process with professionalism. After we began his job, he revealed to me his field of expertise. He commended me on how my company provided him with what he wanted. He methodically explained the process, and I was quite impressed with his ability to communicate. I asked the Board of Directors and the Executive Director

if they would be interested in hearing Dr. Atkins speak at one of our programs for ACCA.

The topic Dr. Atkins chose, and we agreed on, was Sales and Customer Service. This is a topic you can never have too much knowledge about. From the many classes and courses I have taken, I discovered that each one provided me with at least one tool I could walk away with. We discussed, with a Powerpoint presentation, the sales-service relationship, sales process, improving customer service communication and the "you factor."

The ACCA Metro New York Chapter is always striving to bring value to your business. The presentation by Dr. Atkins was most professional and extremely informative, as well as interactive.

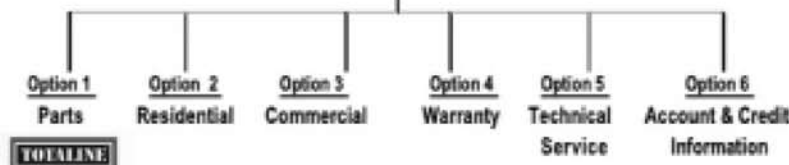
The process of finding the program was coincidental, but gave added value to my fellow members. We ask you to be creative and add to our volunteer organization with ideas that might be of interest to the owners and representatives of our industry. Participation from the members, if not at a board member level, then from a member level on our committees, will make a difference in your business and in ours. Please attend February's meeting at the Westbury Manor. Log onto www.accany.org. — *Anthony N. Carbone*

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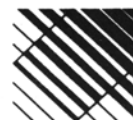
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April 2 (Casino Night)	Westbury Manor
May 14	LaGuardia Marriott
June (Cocktail Hour)	TBD
July or August (Board)	TBD
Sept. 10	Westbury Manor
Oct. 1	LaGuardia Marriott
Nov. 5	Westbury Manor
Dec. 3	
am (Board)	SeaCrest Diner
pm (Holiday Party)	TBD

Every PAID membership includes the cost of dinner meetings for one representative (except joint meetings) for eight meetings in 2008. If you require a special meal (e.g., vegetarian), please contact our office as soon as possible at 516-922-5832.

Any Associate member interested in doing a presentation at one of our meetings, please contact John DeLillo at (516) 922-5832.



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New Revisions to the Employment Eligibility Verification Form (I-9)

The U.S. Citizenship and Immigration Service's ("USCIS") interim final rule published on December 17, 2008, is the agency's latest effort to improve the integrity of the Employment Eligibility Verification (Form I-9) process so that individuals who are not authorized to work are prevented from obtaining employment in the United States. USCIS also has issued a revised Form I-9, Employment Eligibility Verification, which will become effective on February 2, 2009. The I-8 form was last updated in November 2007. It is important to note that all employees must complete the I-9 form within 3 days of the date of hire.

Due to the revisions, employers must use the new format starting on February 2, 2009. The current edition of the Form I-9, dated "06/05/2007", will no longer be

valid. Employers who continue to use the 06/05/2007 version of the Form I-9 on or after February 2 may be subject to civil money penalties.

In addition, the USCIS has indicated that it will make changes to its Employer Handbook publication to reflect the changes. Under the Immigration Reform and Control Act of 1986 ("IRCA"), U.S. employers are required to document on Form I-9 that all citizen and non-citizen employees hired after November 6, 1986, are eligible to work in the U.S. and that their identities match the information on their employment authorization documents.

There are several changes to the I-9 verification process that employers should note. The most significant change to the revised Form I-9 is that employers can no longer accept expired documents during the I-9 verification process. The interim final rule also narrows the list of acceptable identity documents. Another change includes the way in which employers can "re-verify" their employees. Beginning February 2, 2009, employers may only accept documents listed on the List of Acceptable Documents on the revised Form I-9. When an employee must be reverified because his or her employment authorization has expired, employers should ensure that they use the revised Form I-9 with its new List of Acceptable Documents. Even though the employee was hired when a previous Form I-9 was valid, they must comply with the new procedure. Note, however, that employers do not need to fill out new



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Form I-9 documents for employees who have already gone through the process, even if they are recent hires.

The new rule:

- Requires that all documents presented during the verification process be unexpired;
- Eliminates List A identity and employment authorization documentation Forms I-688, I-688A, and I-688B (Temporary Resident Card and outdated Employment Authorization Cards) (these documents are no longer issued by USCIS);
- Adds foreign passports containing certain machine-readable immigrant visas to List A;
- Adds to List A as evidence of identity and employment authorization valid passports for citizens of the Federated States of Micronesia (FSM) and the Republic of the Marshall Islands (RMI), along with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI; and
- Makes technical updates.

Two documents have been added to List A (Documents that Establish Both Identity and Employment Authorization) of the List of Acceptable Documents:

- A temporary I-551 printed notation on a machine-readable immigrant visa in addition to the foreign passport with a temporary I-551 stamp; and
- A passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with a valid Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI.

Three documents were removed from List A of the List of Acceptable Documents:

- Form I-688, Temporary Resident Card;
- Form I-688A, Employment Authorization Card; and
- Form I-688B, Employment Authorization Card.

Recent Changes in the Social Security Tax

2009 is introducing important tax changes to Independent Contractors and the companies that hire them. The maximum amount of earnings subject to Social Security taxes rose to \$106,800, up 4.7% from \$102,000 in 2008. High-income self-employed workers may owe as much as \$595.20 in additional self-employment tax but can recoup some of it through deducting it on their federal income-tax return.

The Social Security Administration recently announced a \$4,800 increase in 2009 taxable earnings of Federal Insurance Contributions Act ("FICA") wages and self-employment income. Although the total tax rates will remain unchanged, the maximum amount of taxable earnings that are subject to

Continued on following page

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Workplace from page 9

the Social Security tax (6.2% for an employee and 12.4% for a self-employed person) will increase from \$102,000 to \$106,800.

There is no limit on earnings subject to the Medicare tax (at 1.45% for an employee and 2.9% for a self-employed person). The combined tax rate on the first \$106,800 of earnings will be 7.65% for employees (plus a matching 7.65% by the employer) and a 15.3% self-employment tax rate; however, self-employed individuals may deduct one half of their self employment tax, resulting in an effective rate of approximately 12%.

For example, on a salary of \$106,800, an employee and his employer would each pay \$8,170 in Social Security

and Medicare tax in 2009. For self-employed individuals, \$106,800 in net earnings would result in \$16,340 in Social Security and Medicare Tax.

As always, should this article raise any questions you can reach me at ABPearl@pmphr.com. •

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Getting A Grip On The Road

By Kelly Hiner, Enterprise Fleet Management

When it comes to getting a grip on the road, all vehicles depend on tires. Because tires are the vehicle's only system that has direct contact with the road, they are affected by every maneuver of the steering wheel, brake or gas pedal. And, although all tires are black and round, there are significant differences that can have a tremendous impact on a vehicle's safety and handling, as well as help to reduce pollution and fuel waste.

As major tire manufacturers invest billions of dollars each year for research and development, they have created notable advances in safety, performance and appearance, including the following improvements and innovations:

Increased Fuel Efficiency

Tires not only affect the handling and performance of a vehicle, they also can be an important environmental asset. Specially engineered low rolling resistance tires (LRR), which create less friction during operation than a conventional tire, contribute to better fuel economy and reduce exhaust emissions. As replacement tires, they cost an additional \$3 to \$12 per tire, an amount that may pay for itself at the gas pump.

Enhanced Safety, Performance & Economy

Another important innovation is the Tire Pressure Monitoring System, also known as the Remote Tire Pressure Monitoring System, which is designed to enhance vehicle safety, performance and economy. Utilizing pressure sensors and a reliable means of transferring information from inside a pneumatic tire to a gauge

type display located in the vehicle control panel, drivers know whether tires need to be inflated or deflated to achieve optimal driving performance.

Run-Flat Tires

New tire technology is helping avoid the danger and inconvenience of flat tires along with saving space and reducing weight by eliminating a spare tire. These new tires include one type that will support the car for up to 50 miles at 55 miles per hour after it loses pressure, and another type that will support the car for up to 125 miles at 55 miles per hour after the tire deflates.

Better Load Ratings for Trucks

Heavy load ratings for truck tires also are improving. Newer, more versatile tires are capable of supporting the weight of hauling while giving passengers a smooth ride, which means light truck owners no longer have to choose between passenger comfort or safely hauling a full load. Even though these tires may be a little more expensive, they eliminate the need for decisions regarding a tire's load carrying capability or ride quality.

The time has come to recognize that of the many variables affecting vehicle fuel economy, the connection between tires and the rate of fuel consumption is significant. And with most tires being replaced every three to five years, resulting in approximately 200 million replacement tires purchased each year, there is no doubt that it is very important to get a grip on new tire technology.

Kelly Hiner is Group Sales Manager for Enterprise Fleet Management in New York and can be contacted at 973-709-2499. •



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Statement From Stuart S. Zisholtz, Esq.

Contracts

I have continuously emphasized that the terms and conditions of a contract are binding. Failure to perform under the terms of the contract can result in damages against you. It is imperative that you read and understand each and every term and condition of a contract when you agree to perform work for an owner or a general contractor. While the amount of the contract is essential, it is not the most vital aspect of the contract. In fact, what is not in the contract could be more important than what is in the contract.

In a recent decision rendered by the Appellate Division, First Department, the issue of additional compensation for increased costs of supplying equipment was addressed. In that case, the contractor requested additional compensation for increased costs of supplying certain equipment required by the New York City Department of Sanitation. The lower court dismissed the claim and the Appellate Division, First Department affirmed.

The basis for the decision was the fact that the contract between the parties did not include an escalator clause for additional compensation for increased costs associated with the equipment. Since the contract did not contain any provisions for increased costs, the Court found that the claim did

not have merit.

While you review the contract for certain terms and conditions, you must know and be familiar with the terms and conditions that should be incorporated into the contract. In this particular instance, the contract should have contained a clause permitting additional compensation to the contractor in the event there is an increase or unexpected escalation in the cost of equipment.

Never Let Your Lien Time Run Out!

For a free copy of a pamphlet pertaining to payment bond claims and Mechanic's Liens, 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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ACCA Testifies Before EPA On R-22 Phase-Out Problems

The U.S. EPA held a hearing January 7th on the two recently proposed controversial rules dealing with the phase-out of HCFCs. ACCA presented oral testimony at the hearing on the impact of the rules on the air conditioning and refrigeration contractors.

The proposed rules, released two days before Christmas, intend to set the production and consumption limits for HCFC refrigerants like R-22 for the years 2010-2014; and set in place the long awaited ban on equipment charged with virgin HCFCs. Both rules are designed to help the United States meet its obligations for the phase-out of HCFCs under the Montreal Protocol.

Both proposed rules pose significant problems for the entire HVACR supply chain if they are implemented. The rulemakings include unexpected language, including a ban on the sale of R-22 equipment after January 1, 2010, which would mean that all R-22 inventory would have to be sold before the end of 2009.

Read more about these proposals, including ACCA's testimony, at Charlie McCrudden's blog on the ACCA web site at www.acca.org. •

Make a habit of checking the ACCA national website regularly for up -to-date information on our industry.

Letters to the Editor

Please fax your comments or experiences that you would like included in our monthly newsletter. Send it in, hand write if you like. We will print it and see what others think. Fax...516-829-5472.



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