

## IN THIS ISSUE...

- 1 President's Message
- 1 January Meeting Notice
- 4 Editor's Notes
- 6 Mandates Face Muddled Future
- 8-9 Holiday Party Photos
- 10 Pearl -Employer Social Media Policies
- 12 Remarketing Begins With Initial Lease
- 14 Zisholtz – Collecting Legal Fees
- 15 Donnelly Mechanical Finalist In ACCA Contest

## Air Conditioning Contractors of America

Greater New York Chapter  
123 South Street,  
Suite 112  
Oyster Bay, NY  
11771

**RETURN  
SERVICE  
REQUESTED**

# Greater New York Contractors' NEWS



[www.accany.org](http://www.accany.org) PLEASE ROUTE THIS PUBLICATION WITHIN YOUR ORGANIZATION

January 2011

## President's Message

WELCOME TO 2011!! With all the holidays behind us and a New Year before us, we would like to wish all the members and their families a happy and prosperous New Year. It is time to get back to work.



Michael Newman

This year begins my two year term as President of the New York Chapter of ACCA. I would like to thank Anthony Carbone who served as the Interim President last year to groom me for the Presidency. I would also like to thank the Board of Directors, John DeLillo and Ron Nathan who was the past president for believing in me and their strong support. I look forward to working with and meeting all the

*Turn to President's Message on page 3*

## January 6th Meeting

### Important Developments in Labor and Employment Law



- **Employee Cell Phones: Can a company be liable in case of an accident?**
- **New and Important Information for New York employers: Legal deductions from wages**
- **New York's new mandatory New Hire Forms – Are you in compliance?**
- **Workplace Privacy Issues**
- **Are you paying your employees in a timely manner?**

Alan Pearl and Rita DiStefano will be on hand to discuss these and other new points of Labor and Employment Law, including Wage and Hour developments, plus a question and answer period, too.

**Thursday, January 6, 2011**  
**LaGuardia Marriott**  
**Cocktails at 5:30 pm; Dinner at 6:30 pm**  
**Register Online at [www.accany.org](http://www.accany.org)**

ACCA, a federation of 60 state and local affiliated organizations, is the leading trade association representing the business, educational, and policy interests of the nation's heating, air conditioning, ventilation and refrigeration contractors. ACCA represents over 9,000 small businesses nationwide through its federation of affiliates.

**Amerisc Corp.**

**Atlynx**  
Surety Brokers, L.L.C.

**Amerisc Benefits Corp.**

SPECIALIZING IN  
**INSURANCE PROGRAMS**  
FOR THE HEATING, VENTILATION AND  
AIR CONDITIONING INDUSTRY FOR OVER 20 YEARS!

*Commercial Insurance - Health & Life*  
*Bonds - Personal Insurance*

CONTACT FRANK ABBATIELLO  
Tel: 516-745-7500  
Fax: 516-745-7565  
e-mail: fabbatiello@theamerisc.com  
www.theamerisc.com



*"Large enough to deliver, small enough to care."*



**Rest easy.**

**Your Totaline® sales center has got you covered.**

You have a lot on your mind – you're a busy HVAC/R pro with new challenges to meet every day. That's why your Totaline sales center is the one-stop shop for all your HVAC/R needs. From after-market motors and compressors to thermostats and IAQ products, we'll help you get the job done. Need chemicals, tools, fittings, and installation items? Or maybe the little things, like duct tape and wasp spray? We've got those, too. And remember – we carry a full line of Factory Authorized Parts, which provide an exact-fit, drop-in replacement on Carrier®, Bryant®, and Payne® products.



**Reminder: You know we're full of hot air.  
But did you know that we're also all wet?**

**Bohemia**  
21 CROSSWAYS EAST  
BOHEMIA, NY 11716  
Phone: (631) 588-2181  
Fax: (631) 218-8104  
Manager: Tom Rucci

**Brooklyn**  
445 CONEY ISLAND AVE  
BROOKLYN, NY 11218  
Phone: (718) 287-5927  
Fax: (718) 287-6134  
Manager: Paul Reynolds

**Farmingdale**  
175 CENTRAL AVE- Suite 300  
FARMINGDALE, NY 11735  
Phone: (631) 501-5720  
Fax: (631) 501-5733  
Manager: Andrew Casey

**Maspeth**  
48-23 55TH AVE  
MASPETH, NY 11378  
Phone: (718) 472-0200  
Fax: (718) 472-6330  
Manager: Mike Byrnes

VIE MANN WILO Bell & Gossett

SAMSUNG QUIETSID Rinnai

Partridge TriangleTube

WATTS Taco Honeywell

Ask about hydronic heating solutions from:

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

members of ACCA this year. I hope to see every one of you at our monthly meetings and events.

This year we will be focusing on increasing the membership within our organization and seeking out greater participation from our contractors, suppliers and associate members. If anybody has an idea or issue relating to our business and industry, please get in touch with us and we will make it happen. I ask, how can ACCA help you this year?

I am glad that 2010 is over and we are now in 2011. The industry as a whole has seen better times over the past few years. It is hard to say that the recession is over and I think we are still in poor economic health. The veteran contractors keep on telling me that they miss the good old days. I am not sure what is meant by the "good old days." Each year is more challenging than the next. We are asking ourselves questions like why are we in this industry? Do we want our children to continue our legacy? What kind of changes do we need to make in our business models? Some of the answers are within our hearts and finding the other answers is a never ending mission. I can tell you that every month I find the answers by being involved in ACCA. Please use ACCA as a networking experience and a place where you can bring the hottest and most relevant business topics back to your day to day operations.

Let's make this a year that will count. HAPPY NEW YEAR!!

— *Michael Newman*

## JOHN F. DELILLO

*Certified Public Accountant*

**ACCOUNTING  
TAX & BOOKKEEPING SERVICES  
BUSINESS VALUATIONS**

*SPECIALIZING IN THE  
HVAC INDUSTRY*

*CERTIFIED  
QUICKBOOKS PROADVISOR*

**123 South Street, SUITE 112  
Oyster Bay, NY 11771**

**Tel: (516) 922-2102 • Fax: (516) 922-1414**

**www.johndelillocpa.com**

**Email: john@johndelillocpa.com**

## ACCA Greater NY Chapter

### Officers

#### *President*

Mike Newman, *Standard Refrigerator - 718-937-0490*

#### *President-Elect*

Al Trudil, *Almore Corporation - 631-345-6050*

#### *Treasurer*

Marc Soffler, *Dynaire Corp - 516-248-9320*

#### *Secretary*

Brian Aull, *Atlantic Contracting & Specialties Corp. - 631-563-6510*

#### *Past-President*

Anthony N. Carbone, *Systematic Control - 516-482-1374*

#### *Executive Director*

John F. DeLillo, *516-922-5832*

### Directors

Steve Bergman, *Twinco Supply Corporation - 631-547-1100*

Roy Bernheimer, *Cascade Water Services - 516-932-3030*

James Carlson, *Michael James Industries (MJI) - 631-231-3434*

Ken Ellert, *Comfort Tech Mechanical - 718-932-2444*

Ron Nathan, *County Fair A/C Corp. - 516-997-5656*

John Ottaviano, *Air Ideal - 516-873-3100*

Greg Singer, *Martack Corporation - 516-998-1000*

Richard Staiano, *National Compressor Exchange - 718-417-9100*

Joe Stranieri, *Industrial Controls Distributors - 212-947-3100*

Harvey Stoller, *Airdex - 718-646-7200*

### Advisory Council

Robert Berger (retired)

Mark Bedson, *Brinco Mechanical Services - 516-378-2277*

Thomas Cleary (retired)

Anthony Cutaia, *Air Ideal - 516-873-3100*

John J. Fanneron, *BP Air Conditioning Corp. - 718-383-2100*

Michael Gelber, *Stan Gelber & Sons - 516-538-0040*

Gene Klochkoff, *Cascade Water Services - 516-932-3030*

Lauren Larsen, *Power Cooling - 718-784-1300*

Michael O'Rourke, *BCC Best Climate Control - 631-218-8022*

Brandon Stone, *All Weather Temperature Control - 631-842-8777*

James Stone, *All Weather Temperature Control - 631-842-8777*

Brian Svedberg, *BCC Best Climate Control - 516-981-1008*

### Committees

*Advertising/Newsletter*

Anthony Carbone

Donald Gumbrecht & Co.

*Baseball Outing*

Scott Berger

Nick Terran

*Casino Night*

Jim Carlson

*Golf Outing*

Ken Ellert

*Holiday Party*

Anthony Carbone

*Membership*

Ron Nathan

*Political Action*

Anthony Carbone

*Scholarship*

John Ottaviano

*Trade Show*

Rich Staiano

Steve Bergman

*Web Page*

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.*

# Editor's Notes

by **Anthony N. Carbone**

Welcome to 2011. This year our industry organization is being lead by Mike Newman of Standard Refrigerator. His vision and leadership will bring us to new plateaus. I ask that you support our organization and his presidency by attending and participating with our monthly events and educational programs as well as our social and networking gathering. Our industry organization provides opportunities to see what our peers in other HVAC operations are doing to solve and overcome business problems and challenges.

The Metro New York Charter of ACCA provides vital and relevant programming and educational topics that will add useful information for your business.

Our newsletter is distributed to 1,000 contractors and supply houses within the metro New York area. I ask you to consider placing an ad in this monthly publication, which is also accessible on the web, to support its costs of production. It is a source of information to many.

It appears the economy is on its way to recovery and the fear of a double dip recession is waning. Many contractors have seen a significant rise in activity in comparison to last year's dismal situation. Contractors had slimmed down their operations and reduced their staff. It seems hiring is occurring again and inquiries for new installations are on the rise.

This cycle also cleaned out many marginal contracting operations as well as some poorly funded and overleveraged supply houses. In times where there is an over abundance of work some "entrepreneurs" make the decision to "give it a go" and create their own companies... some not aware of the daily responsibilities of running a business. When a down turn occurs and the flow of business recedes some of the "entrepreneurs" feel the work flow diminished and decide the overhead costs are far too exorbitant and close down their operation. Therefore, many of these talented individuals find themselves looking for work within other established HVAC companies.

This sometimes is a double edged sword. One, it's a learning experience that may bring a skilled technician back to the work force with the knowledge and appreciation of working for a company that can continually keep them busy. Alternately, when these former business owners re-enter the work force for an interview, the interviewer must ask himself if he is hiring a skilled worker or an "under cover partner" waiting to go back into business for themselves. These are precautions that must be considered during the interview process. Especially as the economy is beginning to grow and contractors are starting to hire more personnel.

What are your thoughts on this column? Please email me at [AC2@SYSTEMATICCONTROL.COM](mailto:AC2@SYSTEMATICCONTROL.COM) and join us at our January meeting at The LaGuardia Marriott with Alan Pearl, an expert labor attorney.



**ABCOR**  
REFRIGERATION SUPPLY CORP.®

49-70 31st Street  
Long Island City, NY 11101  
Phone: 800-786-2075  
Fax: 718-937-9776

## Fulfilling All Your HVAC / R Needs

 In-Depth Inventory    
  On-Staff Experts    
  Fast Delivery

**Bronx**  
600 East 132nd Street  
Bronx, NY 10454  
Phone: 718-401-1001  
Fax: 718-401-2286

**Brooklyn**  
100-01 Avenue D  
Brooklyn, NY 11236  
Phone: 718-257-5700  
Fax: 718-257-5880

**Manhattan**  
541 West 34th Street  
NY, NY 10001  
Phone: 212-929-8400  
Fax: 212-629-5768

**Staten Island**  
420 Bay Street  
Staten Island, NY 10304  
Phone: 718-273-0200  
Fax: 718-720-0500

**Hauppauge**  
33 Central Ave  
Hauppauge, NY 11788  
Phone: 631-234-5500  
Fax: 631-324-5077

**Hicksville**  
225 Charlotte Street  
Hicksville, NY 11801  
Phone: 516-938-8400  
Fax: 516-938-8421

**Suffern**  
12 North Airmont Rd  
Suffern, NY 10901  
Phone: 845-357-3322  
Fax: 845-357-5444

**White Plains**  
80 West Post Road  
White Plains, NY 10606  
Phone: 914-946-2020  
Fax: 914-946-6822















Comfort Where It Counts.







HVAC Advanced Products Division



















**ABCOR's Commitment: Pride Only In Exceeding Each Customer's Highest Expectations™**

**16 Convenient Locations Throughout the Northeast**

Long Island City • Brooklyn • Bronx • Manhattan • Staten Island • Hicksville, NY • Hauppauge, NY • Suffern, NY • White Plains, NY  
Stamford, CT • Totowa, NJ • Kenilworth, NJ • Philadelphia, PA • Center City, Philadelphia, PA • New Castle, DE • Somerville, MA

# The Contractors Choice!

CSI, is a complete full service company offering a large array of HVAC water treatment and air-conditioning services and supplies that many major HVAC Contractors utilize in the tri-state area.

- Water treatment chemicals and chemical feed equipment for cooling towers, closed systems, boilers and glycol systems.
- Air conditioning cleanings on an emergency or preventative basis including coils air/water cooled condensers, HVAC duct cleaning (including video taping of the ductwork conditions).
- Pre-cleaning of new piping systems.
- Cooling tower rebuilding and rehabilitation.
- Comprehensive indoor air quality evaluations and testing of drinking water.



*For a healthy building*

**Chemical Specifics, Inc.**

46-09 54th Road  
Maspeth, NY 11378

*For more  
information  
about CSI,  
call us at  
718-361-6666 or  
look us up on  
the web @  
CSIontheweb.com*

Member ACCA, NADCA & BOMA, NY

## Refrigerant Mandates Face Muddled Future

by Peter Powell /ACHRM.com

### *Prediction of R-22 Shortfalls in 2010 Did Not Materialize*

Mandates governing reduced production of virgin HCFC-22 kicked in early in 2010, but, unlike what was predicted, ended up not affecting contractors all that much. The general consensus is that will probably be the case in 2011 also.

Another small step-down in R-22 production is required come 2011 at the same time contractors will continue to deal with the wild card issue of “dry shipped” R-22 condensing units.

A deluge of legislative initiatives from the Obama administration that could have affected the cost and supplies of HFC refrigerants didn't get much traction in 2010 and appear more than likely in 2011 to get mired in the mud of an even more divided Congress as the result of the recent mid-term elections. Meanwhile, the potential of the U.S. Environmental Protection Agency (EPA) and state governments moving forward with their own environmental agendas remains an unknown.

### THE HCFC ISSUE

On Jan. 1, 2010, a mandated reduction in the manufacturing of virgin R-22 went from 65 percent of the 1999 baseline year to 25 percent. That 110 million metric tons (MT) of new refrigerant was below a predicted demand of 137 MT overall for R-22. Yet, the prediction of some that there could be shortfalls in 2010 did not materialize.

“The industry today has a surplus of virgin R-22 when all the models called for a multi-million pound deficit,” said Gordon McKinney of ICOR International, a manufacturer of refrigerants. “Many believe this surplus could continue through next year and beyond.”

Several more million metric tons of virgin R-22 will be taken out of production come this Jan. 1 as the step down in annual production continues until it reaches 10 percent of 1999 levels in 2015, but as McKinney noted, a continued sluggish economy, moderate weather patterns and a continuing shift to HFC refrigerants could keep supplies of R-22 for aftermarket use adequate.

“If the housing market and general economy improves, and we have a good, hot summer across most the country in 2011, we could see the R-22 surplus lean out and prices begin to rise,” said McKinney. “Even then we believe that more people will move to alternative refrigerants as a long-term, cost-effective option rather than depend on an unpredictable supply chain.”

 **conEdison**  
the power of green



## Expand Your Residential Business Through Energy Efficiency



Become a participating contractor for Con Edison's residential energy efficiency program.

- ✓ Offer customers valuable rebates of **up to \$1,000** on the purchase of qualified equipment and services.
- ✓ Receive **cash incentives** for completing Quality Installations\*.
- ✓ Access sales training and marketing materials.

Participating contractors must be licensed and insured in New York State and attend a one-day training session.

\* Participating contractors may be eligible for an incentive of \$200 if they are BPI-certified as a Central Air Conditioner or Heat Pump Specialist and provide documentation that an ACCA Manual J load calculation worksheet has been completed to determine the proper size of installed equipment.

Call **1-800-430-9505** to sign up for training or request additional information.

The wild card is the decision of a number of OEM manufacturers to continue to produce R-22 residential condensing units for aftermarket use, “dry-shipping” them without R-22 and having technicians field-charge them. The decision followed a U.S. EPA ruling that took effect on Jan. 1, 2010, saying entire systems could no longer be manufactured but “components” could be as long as they were not factory-charged with R-22.

While many thought only parts such as compressors and valves would continue to be made for aftermarket repair, manufacturers saw enough demand for entire condensing units to re-amp production of such components during 2010.

How the “dry-ship” issue plays out in 2011 depends on how many such units end up having to be charged onsite with R-22.

“A significant quantity of units would have to be installed to begin to dent the glut of R-22,” said Kevin Zugibe of Hudson Technologies, which sells refrigerant.

“Installation of dry-shipped units will increase the installed base of R-22 equipment,” said Chuck Broadus of Airgas, a supplier of refrigerants. “This will increase demand for R-22. The impact on supply of R-22 will depend on the number of units installed, which is unknown at this time.”

## HFCs AND LEGISLATORS

Congressional activity was watched closely through 2010 to see how it might impact the future of HFCs and overall costs as with cap-and-trade issues.

It ends up virtually nothing happened in 2010 and probably won't happen in 2011. As noted by Talbot Gee, vice president of the Heating Air-conditioning and Refrigeration Distributors International, “HFC regulations did not go anywhere and will not go anywhere.”

The 1,000-pound gorilla at the start of 2010 was the American Clean Energy & Security Act (ACES), also known as the Waxman-Markey bill, named for U.S. Reps. Henry Waxman and Edward Markey.

The bill had HFCs factored into cap-and-trade regulations and provisions for buy-ins that would add to the cost of HFCs. But as far back as mid-2009, the bill had barely passed the Democratic controlled House of Representatives by a vote of 219 to 212. Now as the result of the November 2010 mid-term elections, the House will be controlled by Republicans and Waxman will lose chairmanship of the House Energy and Commerce Committee and Markey the Select Energy Independence and Global Warming Committee.

Even though passage of the bill stands on record in the House, “no vote is planned in the Senate and ACES is likely dead,” said Ted Gartland of Allied Representatives, an industry veteran who closely monitors legislative matters.

Charlie McCrudden, vice president for government relations, Air Conditioning Contractors of America, agreed. “There is no chance this bill will pass Congress in the next

two years, and most likely even the next four years. President Obama said as much in his press conference the day after the election.”

Howard Latin, an environmental law professor from Rutgers Law School, doubts anything will ever come out of Congress regardless of which party is in power. He told an audience at a sustainability fair this summer in Oregon, Ill., that “Climate change (legislation) in the House is pathetic and weak. Elected officials are afraid of what it will do regarding jobs and the economy.”

Regarding the hodgepodge of state mandates and efficiency standards, McCrudden said, “Many states are developing their own retrofit incentive programs with federal dollars. Each has pursued a different path and a patchwork quilt of programs that favors different types of appliances. For example, some states give rebates for higher efficiency furnaces and air conditioners while other offer rebates for higher efficiency ‘white goods’ like dishwashers and clothes washers. A few common themes have emerged: Since it’s public money being floated to benefit private homeowners, there needs to be some form of quality assurance that the equipment is installed properly. We’ve recommended that states require installing contractors to adhere to ACCA’s Quality Installation Standard for HVAC equipment qualifying for rebates or incentives.”

McCrudden also offered some perspectives on how the EPA might act. “We may see the Obama Administration, through the EPA, use the Clean Air Act through a regulatory rule to restrict or limit the emission of carbon dioxide and other greenhouse gases. The EPA does have the authority under a recent Supreme Court ruling to regulate green house gases starting on Jan. 2, 2011. If that were to occur, there are enough votes in Congress to delay the implementation of the rule for at least two years. In the next Congress, there could be changes made to our national energy policy, but it will be incremental change.”

## GLOBAL

Don’t expect much on a global level, say some observers. While the Montreal Protocol of the 1980s did change the HVACR sector, the subsequent Kyoto Protocol of the 1990s never got United States support for a specific commitment in GHG reductions and many countries agreeing to their own targets did not reach them until the worldwide recession kicked in. The most recent Copenhagen Accord of 2009 produced neither specific targets nor commitments to reach them.

Rutgers’ Latin blames this on the phenomena of recent years classifying countries as “developed” (the United States, Canada, European countries, for example) or “developing” (China, India, Mexico, for example). “Ultimately, developed and developing countries have opposite positions. There is no common ground. All the two sides do at international conferences is try to strengthen their positions,” he said. •

# ACCA Holiday Party - December

Photos Thanks to Fred

**S**pecial Thanks to these Great

**ABCO Refrigeration**

**American**

**B&F Johnson**

**National Company**

**Twincor**





# December 2, 2010 - Westbury Manor

Bill Martel & John DeLillo

## Sponsors of our Holiday Party

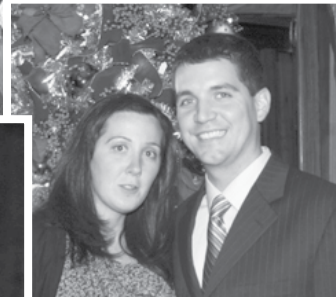
Automation Supply Corp.

Asc Corp.

Best Stone Supply

Compressor Exchange

Supply Co.



# 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

## Employer Social Media Policies and the NLRB

This office has previously spoken to ACCA members about social networking and privacy in the workplace. A recent ground-breaking case may change the scope of how employers restrict employees' after hours social media use.

In a case that will be heard in January of 2011, the National Labor Relations Board ("NLRB") has accused a company of illegally firing an employee after she criticized her supervisor on her Facebook page. This is the first case in which the labor board has stepped in to argue that workers' criticisms of their employers on a social networking site are a protected activity and that employers would be violating the law by punishing workers for such statements.

The employee was involved in a dispute with her supervisor. The employee wrote several comments on her Facebook

page with regard to her supervisor and the company's policy making decisions. Several of her coworkers commented on her post and participated in an unflattering discussion which included vulgarities and ridicule of both the company and the supervisor. Once this conduct was discovered, the employer fired the employee for violating a company policy that barred employees from depicting the company "in any way" on Facebook or other social media sites. What piqued the NLRB's interest was the perceived restriction of employees' ability to discuss working conditions. This restriction is potentially a violation of the National Labor Relations Act ("NLRA") which protects union employee's organizational rights.

The current debate is whether the company's social media policy was "overly broad" and improperly limited employees' rights to discuss working conditions among themselves. The ultimate issue will be (1) whether the social media policy would "reasonably tend to chill employees" in the exercise of their rights to discuss wages, working conditions and unionization (2) whether the employee's social media use was protected activity.

No decision is expected before mid-2011. Regardless of whether your company has union employees or not, the decision of the NLRB will have significant impact as to the scope of permissible restrictions on social media use. Now is a good time to review your social media policy and evaluate what exactly it restricts.

### A&R TECHNICAL

ANRTECHNICAL.COM

516-827-9570

**We now offer EPA on-line testing with instant results!**

Single students accepted.  
3 hr. Training session.  
2 hr. for Universal test.  
Training manual included.

**EPA preparation and testing last Saturday each month.**

***Custom Training for your needs!***

**NATE & HVAC Excellence on-line proctored testing**

3 hr. review 2 hr. test

**Program Preparation**

6 sessions 3 hr. each course

**Core**

Electrical Application      Commercial Gas Heat  
Air Conditioning              Commercial A/C  
Heat Pump                      Commercial Refrigeration  
Residential Gas Boilers: Install and Service

Standard and High Efficient, Wall Hung

Class Starts upon Enrollment

Call Art for information and pricing 516-827-9570

***Special rates ACCA Members***

## I-9 Verification: There Is Such a Thing as Being Too Cautious.

All employers are required to comply with the I-9 Verification Process that verifies individuals' ability to legally work in the United States. However, requesting extra documents from some groups of employees can get you in hot water with the government as well. Employers should be mindful that they should not go overboard, because requiring extra proof from some individuals could constitute discrimination.

The Office of Special Counsel ("OSC") for Immigration-Related Unfair Employment Practices enforces the anti-discrimination provision of the Immigration and Nationality Act ("IRCA"). This statute prohibits discrimination in hiring, firing, or recruitment that is based on an individual's national origin or citizenship status. The statute also prohibits unfair documentary practices during the employment eligibility verification (I-9) process and retaliation or intimidation.

Although employers are afraid of penalties that are assessed when they fail to go through the I-9 process, they should also be afraid of penalties for discriminatorily administering the process. Penalties can be assessed when employers request too many documents during the I-9 process or re-verify employees with expired green cards.

Although it may sound odd, although documents presented during I-9 completion must be unexpired, employers should not re-verify employees whose green cards expire during their employment.

For example, a major health care company received penalties when they required different documentation depending on citizenship. The company required non-U.S. citizens and naturalized U.S. citizens to present more work authorization documents than U.S. citizens. In the settlement agreement, the health care provider agreed to pay \$257,000 in civil penalties plus \$1,000 in back wages to the charging party. A second example involves a company whose internal policy required employees who had presented a permanent resident card (green card) for I-9 purposes to produce a new green card when theirs expired. The company agreed to a civil penalty of \$10,200, to conduct I-9 training, and to provide reports to the OSC for a period of one year.

Employers should review their I-9 compliance procedures to ensure compliance not only with basic I-9 comple-

tion requirements, but also to ensure they are not violating the I-9 discrimination and document abuse rules as well. PMP can assist in this process by answering questions as to what constitutes “safe behavior” versus what constitutes discriminatory conduct. Portnoy Messinger and Pearl would like to wish everyone a healthy and prosperous new year. I would like to thank ACCA members for their support of PMP. As always, should this article raise any questions you can reach me at [ABPearl@pmpHR.com](mailto:ABPearl@pmpHR.com).



Partnering with ACCA  
for Comprehensive Human Resource Solutions

Policy Development \* Training \* Employee Handbooks \* Affirmative Action Plans  
OFCCP Audits \* Labor Strategies & Solutions \* Compliance \* HR Vulnerability Reviews  
Union Avoidance \* Arbitration \* NLRB Hearings \* Recruiting & Placement  
Compensation \* Job Descriptions \* Performance Management  
HR Outsourcing \* HR On-Site Mentoring \* HR Help Desk  
[www.pmpHR.com](http://www.pmpHR.com) [abpearl@pmpHR.com](mailto:abpearl@pmpHR.com)  
516-921-3400



**We're your bridge to cost effective insurance management**


- Home Builders Insurance Program
- Remodelers Insurance Program
- Trade Contractors Insurance Program

Contact: Anthony Capone, CIC, John Glanzman, CIC, Jim Murphy, CIC  
Joseph Teixeira or Edward C. Palace

**NEWBRIDGE COVERAGE CORP.**

1666 Newbridge Rd. N. Bellmore, NY 11710 Phone (516) 781-9000 Fax (516) 781-9172	236 Main St. Center Moriches, NY 11934 Phone (631) 325-1972 Fax (631) 325-9065
---	---


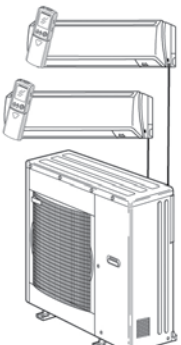
<http://www.newbridgecoverage.com>




**MITSUBISHI ELECTRIC**

Cooling and Heating Solutions  
[www.mitsubishicomfort.com](http://www.mitsubishicomfort.com)

John Hanley  
973.256.3690  
[jhanley@hvac.me.com](mailto:jhanley@hvac.me.com)

**SAVE THE DATE!**



**ACCA's CASINO NITE**

**Wednesday  
April 6th  
at Westbury Manor**

**Want extra copies of our newsletter for others in your organization? Please visit our website at [www.accany.org](http://www.accany.org)**

**Attention: Wanted Lennox Dealers**

Dave Lennox Signature® Collection Healthy Climate® 16 Media Air Cleaner



**#1 rated**  
professionally installed, whole-home filtration system as ranked by a leading consumer magazine.

**For opportunities today, please contact Robert at:**

**LENNOX INDUSTRIES**  
50 Skyline Drive  
Plainview, N.Y. 11803  
800-356-3283



## Remarketing Begins With Initial Lease

By Kelly Hiner/Enterprise Fleet Management

Believe it or not – the best time to begin thinking about remarketing a fleet of vehicles is during the model year selection process. It makes good sense to acquire new vehicles in the most popular colors, styles and with the options that will have the broadest appeal when they're ready to sell. But it's even more important to select the right size engine to do the job without being overloaded, which could create problems with the powertrain or other mechanical systems that would diminish resale value prematurely.

In addition, branding options can impact how easy it will be to sell the vehicle at the end of the lease. Instead of a custom paint job, choose vinyl wraps or magnetic signage that can be removed when the vehicle is ready to be remarketed. Also, spend a little extra on seat covers, cargo mats, vinyl bed liners, side panels, properly outfitted shelving and other items that will reduce wear and improve the appearance.

However, smart decisions about choosing vehicles may not be enough. It's just as important to develop and enforce a driver policy that outlines in specific detail the company's expectations for proper care and maintenance. Rewarding conscientious drivers should be a component of that policy. These steps can go a long way to ensure vehicles not only retain their resale value, but also continue to positively represent the company's brand image when being driven on the road.

Another factor to consider is that holding onto older vehicles with higher mileage can end up being more expensive


in the long run due to rising maintenance and fuel costs, frequent breakdowns and expired warranties. One way to better control these costs is to institute a replacement program with a professional fleet management company that is fully staffed with specially trained fleet remarketing professionals. They understand the importance of maximizing resale value and can help to acquire and replace vehicles in the most seamless, efficient and cost effective manner available.

A replacement program ensures vehicles are replaced at appropriate intervals to achieve optimum performance and the best resale value. It can include a detailed analysis that eliminates the guesswork by considering everything from the vehicle's mileage, style, age and maintenance history to time of the year and current used car sales market. Working with a fleet management company that is decentralized can help maximize price and reduce costs by encouraging competition, improving access to the buying dealers and establishing strong relationships with each auction.

Last, but not least, any vehicle being remarketed will be more attractive if it is reconditioned. The need for larger repairs may be disclosed to the buyer, who can perform them at their discretion. However, small repairs, detailing, paintless dent removal and related services will improve a vehicle's appearance, and the return can be more than double what is spent upfront to ensure it looks most appealing.

For many businesses, a fleet of vehicles represents one of their largest costs. While saving money on vehicle acquisitions is a key way to cut costs, business owners also need to consider long-term decisions such as how to save money on the back end of a vehicle's life cycle.

*Kelly Hiner is Group Sales Manager for Enterprise Fleet Management in New York and can be contacted at 973-709-2499. Kelly is supported by an experienced team of veteran mechanics and accredited Automotive Service Excellence (ASE) technicians to serve the fleet maintenance needs of businesses with mid-size fleets. In addition to maintenance management programs, Enterprise's services include vehicle acquisition, fuel management and insurance programs, as well as vehicle registration, reporting and remarketing. Visit the company's web site at [www.efleets.com](http://www.efleets.com) or call toll free 1-877-23-FLEET. •*



**Full construction accounting systems from Estimating, Job Costing and Service Management to Payroll, Accounts Receivable and Project Management.**

**We are your local computer technology specialist for the Heating Ventilation & Air Conditioning Industry.**

---

2001 Marcus Avenue, Suite 5265  
Lake Success, NY 11042  
(516) 256.4444

SAGE TIMBERLINE OFFICE  
[www.gcmsystemsllc.com](http://www.gcmsystemsllc.com)



8334 23rd Avenue  
East Elmhurst, NY 11376  
718-458-7920  
[www.enterprise.com/fleets](http://www.enterprise.com/fleets)

**Kevin Hughes**  
Area Sales Manager

**Paul Babinelli**  
Account Executive  
718-458-7920, ext. 303  
[paul.m.babinelli@erac.com](mailto:paul.m.babinelli@erac.com)



**COUNTY ENERGY CONTROLS, LLC**  
A wholly owned subsidiary of County Pneumatic Controls, Inc.

**Web-Based Energy Management Systems**

429 Montauk Hwy - POB 780  
East Quogue NY 11942  
[www.countyenergycontrol.com](http://www.countyenergycontrol.com)

Kevin Cirincione  
President

p: (631) 653-9124  
f: (631) 653-9177  
e: [cpckevin@optonline.net](mailto:cpckevin@optonline.net)



**We Want You!  
Join a Committee!**

Call John DeLillo at 516-922-5832

For All Your  
HVAC Requirements

Twinco Supply Corp.

**TWINCO LOCATIONS**

**Long Island 11746**  
55 Craven St. • Huntington Station, NY  
Tel: 631.547.1100 Fax: 631.547.1103

**Long Island City 11101**  
10-11 38<sup>th</sup> Ave. • Long Island City, NY  
Tel: 718.729.0005 Fax: 718.729.3866

**New York City 10001**  
548 West 28<sup>th</sup> St. • New York, NY  
Tel: 212.631.0555 Fax: 212.631.0776

[www.twinco.com](http://www.twinco.com)



4 Magnet Street  
Stony Brook, New York 11790



Our staff of factory trained application and sales engineers are ready to help you meet the growing challenges of today's HVAC, Temperature Control and Building Automation Systems marketplace.

- HVAC, Pneumatic, DDC Controls
- Access Controls & CCTV
- Wireless Controls
- Systems Design
- Panel Fabrication - UL508
- Mechanical Equipment
  - \* VAV Boxes
  - \* Fan Coil Units
  - \* Blower Coil Units
  - \* Variable Frequency Drives
  - \* Dampers - Fire, Smoke, Control
- Wire & Cable

Phone: 631-689-5745 • Fax: 631-689-5463  
E-mail: [jmarcntl@optonline.net](mailto:jmarcntl@optonline.net)

**COMPRESSORS**

**National Compressor Exchange, Inc.**

Remanufacturer: Reciprocating & Screw Semi Hermetic Compressors  
Full Stock.....Immediate Replacement  
*1 to 5 Year Warranty*

**New Facility: 75 Onderdonk Ave., Ridgewood, N.Y. 11385**  
**Plus — New Location on Long Island — Old Bethpage**  
Tel: 718-417-9100 Fax: 718-821-7032  
Outside New York: 1-800-225-7381  
[www.nationalcompressor.com](http://www.nationalcompressor.com)

*Things are looking up at*  
**BLACKMAN**



**Blackman is your one-stop HVAC supply center, featuring these great brands:**

- Ruud
- Heil
- Hart & Cooley
- Acme
- Honeywell
- Fujitsu
- Diversitech
- Honeywell
- Shurtape
- Cambridge-Lee



**BLACKMAN**<sup>®</sup>  
PLUMBING/HEATING/COOLING SUPPLIES  
[www.blackman.com](http://www.blackman.com)

Manhattan .....212-337-1000  
Flushing .....718-939-7200  
Queens Village ..718-479-5533  
Lynbrook .....516-593-3100  
Mineola .....516-742-1011  
Hicksville .....516-931-6144  
Huntington .....631-271-0500

Wantagh .....516-785-6000  
Bohemia .....631-567-1551  
Medford .....631-475-3170  
Rocky Point .....631-744-1955  
Riverhead .....631-727-4800  
Southampton ...631-283-1500  
General Offices ..631-823-4300

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

### **Collecting Legal Fees**

One of the questions asked by prospective clients is whether they are entitled to recover legal fees in connection with their litigation. My response is routinely, no, except in limited circumstances.

Legal fees are recoverable in litigation if there is a particular statute which is being relied upon in the litigation or if the parties contractually agreed to the recovery of legal fees. In the first instance, there are limited statutes which address the recovery of legal fees. Specifically, General Obligation Law § 5-322.3 requires the filing of a payment bond in a private reject where the work exceeds \$100,000. The statute continues by stating that any owner who fails to file such payment bond shall be liable for the reasonable attorney's fees, as determined by the Court, if the Claimant is successful in bringing an action or proceeding on the bond.

Another example is New York State Finance Law § 137(3)(b) which allows for the payment of reasonable attorney's fees in a public project where the defense interposed was without substantial basis in law or fact. The recovery of leg fees is discretionary under the statute due to the fact that there must be a finding that the defense interposed was without substantial basis in law or fact.

Aside from the two statutes, most claims seeking recovery of legal fees are based solely on the contract between the parties. Legal fees are recoverable if the agreement permits the recovery of legal fees. There must be language in the agreement that states that if contractor is required to engage an attorney to collect the outstanding balance, that the contractor will be entitled to recover reasonable attorney fees. Without this terminology, or without relying upon the two statutes pertaining to payment bond claims, you will not be able to recover legal fees. It is essential that you incorporate the appropriate language in your contract prior to executing it.

While attempts can be made to recover the full amount due, including accrued interest, in order to offset the costs of the legal fees, it is not a guarantee and should not be relied upon. My suggestion is that you incorporate language in your contract to allow for the recovery of legal fees in the event a claim is necessary.

Never let your lien time run out!

For a free copy of a 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. •*



Dedicated to the success of our HVAC partners



Wholesale Distributors ■ Air Conditioning ■ Heating

485-13 South Broadway  
Hicksville, NY 11801  
516-931-6500  
Fax: 516-931-6566

80 13th Avenue, Suite 4  
Ronkonkoma, NY 11779  
631-981-4000  
Fax: 631-580-3792

5-15 54th Avenue  
Long Island City, NY 11101  
718-937-7300  
Fax: 718-706-6529

175 Clearbrook Road  
Elmsford, NY 10523  
914-592-0020  
Fax: 914-592-0291

You can also find these and other quality products and services at [www.wallworkgroup.com](http://www.wallworkgroup.com)



## Donnelly Mechanical Is Finalist in ACCA 2011 Contractors of the Year Contest

The Air Conditioning Contractors of America (ACCA), the nation's largest association of indoor environmental systems professionals, has announced the finalists for the association's 2011 Contractors of the Year.

"Contractors from all over the country nominated some of the most impressive companies for these awards this year," said Paul T. Stalknecht, ACCA president & CEO. "These six finalists represent some of the most unique business approaches in the industry, and our panel of past chairmen who are judging, again have a tough decision to make to select winners from this excellent group of finalists."

The winners in each category—one residential and one commercial—will be announced at the 2011 ACCA Conference, scheduled for February 15-17 in San Antonio, Texas. The finalists in the two categories are:

**2011 Contractors of the Year—Residential**  
Cropp-Metcalf Air Conditioning-Heating-Security, Fairfax, VA

Doctor Cool & Professor Heat, Inc., League City, TX  
Jackson & Sons, Inc., Dudley, NC



**2011 Contractors of the Year—Commercial**  
Air-Tro, Inc., Monrovia, CA  
Donnelly Mechanical, Corp., Queens Village, NY  
K&M Shillingford, Inc., Tulsa, OK

For more information about the ACCA Annual Conference and Indoor Air Expo or the ACCA awards program, visit [www.acca.org](http://www.acca.org) or [www.accaconference.com](http://www.accaconference.com).



**Make a habit of checking the ACCA national website**  
**[www.acca.org](http://www.acca.org)**  
**regularly for up-to-date information on our industry.**



## Become a LIPA Cool Homes Contractor

Earn more with LIPA contractor incentives every HVAC season!



Becoming a LIPA Cool Homes contractor can mean more business for your business. LIPA's comprehensive Cool Homes Program for contractors includes:

- Educational seminars, taught by independent trainers, on proper equipment sizing using ACCA Manual J and airflow and system charging.
- Additional HVAC technician self-development courses available online through vocational training companies. Visit [www.lipower.org/commercial/trade/online](http://www.lipower.org/commercial/trade/online). Special discounts are offered when registering through the LIPA Web site.

Learn more about LIPA's exciting customer and contractor incentives. Call 1-800-692-2626, or visit [www.lipower.org/efficiency](http://www.lipower.org/efficiency)

**LIPA...working with you for a more energy-efficient Long Island.**

The Cool Homes Program is part of LIPA's Efficiency Long Island initiative, a groundbreaking, 10-year effort to increase energy-efficiency and reduce greenhouse gas emissions on Long Island.



# Cascade Quality Services Are Better Than Ever!

## Water Treatment

- Cooling Water
- Boiler Water
- Drinking Water
- Well / Ground Water

Scale, corrosion, biological growth, air & water born dirt & debris are expensive if not controlled properly. Total service and or advisory service programs are available that are custom designed specifically for your system.

## Cleaning Services

- Cooling Towers •Boilers
- Chillers •Piping
- "Closed" Systems
- Water & Air Cooled Condensers
- Air Handlers & Ducts •Tanks

Dirty systems are expensive, both in energy costs and downtime. Our trained service personnel and custom designed equipment and vehicles are available for prompt, cost efficient response to either *emergency* or scheduled cleanings.

## Rebuilding & Repair

- Cooling Towers
- Water Tanks

We restore cooling towers and tanks to original capacity at a fraction of the replacement cost.



Quality Works

**CASCADE**  
WATER SERVICES

113 Bloomingdale Rd.  
Hicksville, NY 11801  
Tel: (516) 932-3030  
Fax: (516) 932-0014

Licensed by: THE CITY OF NEW YORK  
DEPARTMENT OF HEALTH #20 000173, 14 000156;  
and the NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION # C1628716; All  
biocides are registered with the UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY.



Commercial and Residential Heating & Air Conditioning Equipment  
Air Movement & Air Quality Products, Controls, Accessories,  
Supplies & Building Automation Systems

**Serving the Greater New York & Metro Trading Areas**

**Contact us to learn how we can help you!**

Elmsford, NY • (914) 347-3929

Headquarters in NJ • 1-800-886-8740

Nick Conte cell • (201) 618-9687

**FRASER-JOHNSTON**  
Heating ■ Air Conditioning

**SOURCE**  
HVAC SERVICE PARTS™



THRU THE WALL

HEATING & AIR CONDITIONING EQUIPMENT