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MARCH 2009

President's Message

OUR FEBRUARY 12 MEETING WAS HELD AT THE WESTBURY MANOR.



Ron Nathan

The guest speaker was

Louis Karol of the Garden City law firm of Karol, Hausman and Sosnik. He discussed basic asset protection and estate planning. The Obama administration is proposing estate tax laws changes that we, especially as business owners, need to be aware of and in possession of the latest information.

Mr. Karol explained that asset

Turn to President's Message on page 3

You Are Invited To Our
MARCH MEETING!

"Selling Skills For A Challenging Economy!"

Acclaimed business trainer **Jeff Goldberg**, an international trainer, consultant and speaker, will offer tips, techniques and tools to help you take advantage of every sales opportunity.

See page 6

THURSDAY, MARCH 5, 2009
at the LaGuardia Marriott

Cocktails — 5:30 pm; Dinner — 6:30 pm

Followed Immediately by the Program

Let us know **ONLINE** you are coming: www.accany.org

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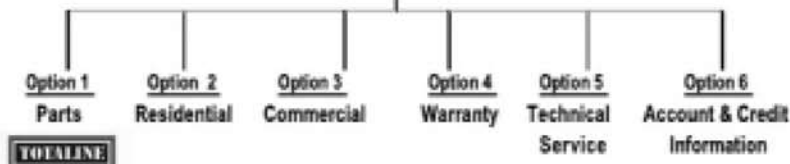


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PRESIDENT'S MESSAGE *Continued from page 1*

protection should be a primary concern for all people in a number of circumstances. This protection needs to address creditors, bankruptcy, divorce, taxes, long term care, and Medicaid. He provided us with some valuable handouts that outlined annuities, life insurance, retirement accounts and trusts.

The Estate Planning Process booklet, which Mr. Karol supplied, states that the goal of such planning is to provide for the efficient and cost effective management and distribution of an individual's assets. Without planning, there is a significant possibility that your assets may not pass to intended beneficiaries and may be reduced by avoidable taxes and unnecessary costs of settling your estate. As unpleasant as you may find thinking about the inevitable end of life, there are certain important documents we should all have in place. Among these are a last will and testament, health care proxy and insurance. Other possibilities mentioned by Mr. Karol include revocable living trusts, power of attorney, gifting, personal residence planning, and family limited partnerships.

As business owners, business succession planning is of particular importance to us. If your business plan includes the ability to pass your company to the next family generation, the techniques discussed by Mr. Karol would be extremely valuable. I hope you were able to join us for this informative evening.

After the conclusion of our February meeting, members gathered around a welcoming fireplace at the Westbury Manor to discuss our personal thoughts on the economy and what we have been doing within our own companies to survive these troubling times. We shared ideas and options on GPS systems and company drug testing. The future of fuel-efficient trucks was discussed. Different mechanisms for providing Workers Compensation were also a topic of conversation. I found this impromptu discussion group to be both lively and informative. One of the best ways for us all to help our businesses thrive is to exchange ideas and offer suggestions to our fellow ACCA members. Please join us at our March meeting to add your opinions and learn some valuable business strategies. — **Ron Nathan**

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Editor's Notes

By Anthony N. Carbone

With many single digit degree days this winter, consumers were faced with extensive operating costs and an excessive burden to their heating systems. Upon breakdown of older units, many chose to repair and forego replacement, if at all possible. The marketplace is tight and the attitude is to do nothing.

Spending habits have changed and everyone is looking for the lowest price. Wait and see, even with those who have jobs and money is prevalent everywhere. The economists are calling this a worldwide slowdown. In my opinion, this problem kicked into high gear when gas went to \$4-\$5 per gallon. This basically took \$80-\$100 per week out of the average middle class household with 2 cars. Multiply this by 4 weeks and you have \$400 or \$500 per month of discretionary income that went into the gas tank and out of the economy. This country has a love affair with cars and cheap gasoline. We have control over the third largest producer of oil in the world...Iraq. We now have direct influence over middle eastern oil. This is baffling.

The refrigerant changes for 2010 will evidently change the process of business for HVAC contractors. The July 3rd "I'm having a barbecue tomorrow and my air conditioning must be fixed" replacement outdoor condensing unit will be a thing of the past. It seems legislation will make stockpiling R-22 condensing units useless. Consumers will now be burdened with replacing line sets, air handlers, and experiencing triple the price for replacement of central air conditioning systems. Retrofit replacements

of changing 3 or 4 condensers per day will no longer fuel the engines of HVAC contractors.

When a consumer has a breakdown, the cost factor and down time will make many consumers think twice about the affordability of "the luxury central air." This cost burden being brought to consumers via the E.P.A. is extraordinary considering the economy. The phase out process should be all newly installed units such as new installation, or total replacement should be R-410A, not partial replacements. Many air handlers can last 30 - 40 years indoors while condensers have an expected life of 10 - 15 years due to the extremities of weather conditions. How this plays out and the strategies HVAC companies implement, should be interesting.

February's program at the Westbury Manor, with trust and estate attorney expert, Louis Karol, was extremely informative. Mr. Karol systematically explained how to maintain control of your assets and convey them within the scope of the law with minimal tax impact to your heirs. His advice would normally cost hundreds of dollars but was brought to you by our board of directors and past president, Ken Ellert. These types of meaningful programs bring added value to your membership. Subtracting the value brought to you from our programs makes ACCA membership practically "free." In this treacherous economy, can you afford not to be informed? Join us at ACCA and you will find yourself ahead of the pack!!!

— Anthony N. Carbone

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March Meeting To Feature International Sales Trainer Jeff Goldberg



JEFF GOLDBERG

Let's face it...the economy has changed and we need every tool in our arsenal to be honed to a fine edge if we're going to not only survive, but thrive. International sales trainer Jeff Goldberg will be speaking to us on Thursday, March 5th about, "Selling Skills for a Challenging Economy." Jeff will share tips, techniques and tools to help you take advantage of every possible sale opportunity. You'll walk away with:

- How to open a meeting and establish rapport
- Why questions are the real key to selling and the right questions to ask
- How to develop a "brief commercial" about your company that gets

people interested

- The one thing that **MUST** be included in every presentation
- A simple and deadly effective way to "close the deal"
- ...and much more!

Jeff Goldberg is an award-winning sales professional & professional speaker with more than three decades of sales, train-

ing, and management experience. He has had the opportunity to teach, coach, mentor and speak in front of thousands of sales professionals, ranging from financially successful veterans to the most junior new hires in a diverse array of industries. His personal experience includes work in the Insurance, Market Research, Corporate Seminar, Publishing, Retail and Recruiting industries. He has worked with and trained executives in such areas as Advertising, Telecommunications, Information Technology, Financial Services, and Healthcare to name a few.

Jeff delivers powerful, high-energy programs and speeches that draw on his years of experience as a performer in the theatre and stand-up comedy. He is relentlessly energetic and results-driven and injects humor, passion, and a strong dose of reality into his programs. He has delivered training for clients such as State Farm, Newsday, Cisco, Citibank, Cablevision, and others representing nearly every commercial and industrial category.

Be sure to join with your fellow ACCA members for this valuable presentation. Thursday, March 5, 2009 at the LaGuardia Marriott. Cocktails are at 5:30 pm, dinner at 6:30 pm followed by the presentation. Let us know you are coming. Register at www.accany.org. •

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People & The Workplace

By Alan B. Pearl,

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Employees Entitled to Increased Protection from Identity Theft

Personal information breaches are a growing concern for employers, who often keep privileged and confidential information as a routine part of business. Recently, there has been significant focus on use and disclosure of social security numbers. Recently enacted New York laws now impose greater obligations on employers to keep certain information protection.

New York recently passed the New York Employee Personal Identifying Information Law, effective January 3, 2009, in order to counteract the unauthorized use/dissemination of personal employee information, such as social security numbers ("SSN"). Employers maintain many types of confidential information in employee files, such as copies of insurance forms, medical records, or copies of I-9 verifications. Under this new law, employers should ensure that their records are kept securely, and employees are not required to divulge confidential information in

certain situations listed by the statute.

Employers should note that the statute broadly defines "personal identifying information" to include an employee's SSN, home address or phone number, personal e-mail address, Internet ID or password, parent's surname prior to marriage, or driver's license number.

Employers are prohibited from doing the following:

- publicly posting or displaying an employee's personal identifying information;
- visibly printing any personal identifying information on any employee identification badge or card, including any time card;
- placing personal identifying information in any file with unrestricted access; or
- otherwise communicating an employee's personal identifying information to the general public.

Penalties for violating the statute are steep. Employers can be fined up to \$500 for every knowing violation of the statute. Furthermore, failure to advise employees of this law, and failure to establish procedures or policies to safeguard against such violations, provide "presumptive evidence" of a "knowing violation" of this law.

Employers should also keep in mind the New York Social Security Protection law which went into effect a year ago, on January 1, 2008. This statute provides similar protections. Generally, the legislation restricts the use and communication of SSNs in order to maintain their



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confidentiality and make it more difficult for employees identities to be stolen. New York employers must not engage in the following practices:

Intentionally communicating or making available to the general public an individual's SSN (or any number derived from a person's SSN);

- Printing an individual's SSN on any card or tag required for the individual to access products, services or benefits;

- Requiring an individual to transmit his SSN over the internet, unless the connection is secure or the SSN is encrypted;

- Requiring an individual to use his SSN to access an internet web site, unless a password or personal identification number or other authentication device is also required to access the site; and

- Printing an individual's SSN on any materials mailed to the individual (unless state or federal law requires the SSN to be on the document). There are significant exceptions to this prohibition, which are discussed below.

Penalties for non-compliance are harsh. If these practices are unlawful, the court may permanently suspend the violating activities. First-time violators face a penalty of \$1,000 per violation, up to a maximum of \$100,000 for multiple violations resulting from a single incident, such as when a hacker gains access to multiple Social Security numbers at once. Second-time violators face penalties of \$5,000 per violation, with a maximum of \$250,000 for multiple violations resulting from a single incident.

Employers should review their personnel practices now, to avoid learning their lesson the hard way.

Lilly Ledbetter Fair Pay Act Signed by the President

Under a May 2007 decision by the Supreme Court, it was found that Lilly Ledbetter waited too long to file a claim for gender discrimination under Title VII of the Civil Rights Act.

To rectify this perceived wrong, on January 29, 2009, President Obama signed into legislation the Lilly Ledbetter Fair Pay Act of 2009 ("Ledbetter Act"). This Act overrules the Supreme Court decision in *Ledbetter*

v. Goodyear Tire & Rubber Co. that limited a plaintiff's filing period to 180 days after the first alleged discriminatory pay decision.

The Ledbetter Act amends several key federal statutes that protect individuals from discrimination. Title VII of the Civil Rights Act of 1964, which makes it unlawful to discriminate on the basis of gender, race, color, religion, sex and national origin, will be affected. Specifically, Title VII will be amended in that an unlawful employment practice concerning compensation occurs when:

- a discriminatory compensation decision or other practice is adopted;

- an individual becomes subject to the decision or

Continued on following page

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Workplace from page 9

practice; or

- an individual is affected by application of the decision or practice, including each time wages, benefits, or other compensation is paid.

The law allows a successful plaintiff to obtain relief, including recovery of back pay, for up to two years preceding the filing of the charge, where the unlawful employment practices that have occurred during the charge filing period are similar or related to practices that occurred outside the time for filing a charge.

The Ledbetter Act also applies to claims of pay discrimination under the ADA of 1990, the Rehabilitation Act of 1973 and the ADEA of 1967, when a person becomes subject to the decision or other practice, or when a person

is affected by the decision or practice, including each time wages, benefits, or other compensation is paid.

How Does it Affect Employers?

The Ledbetter Act faced opposition because many feared that passage of the act would create a flood wave of litigation. However, the LLFPA merely restores the law to the way it was before the *Ledbetter* decision. Plaintiffs would still have to satisfy a number of requirements to be able to sue. Litigants would still have to file a claim with the Equal Employment Opportunity Commission in order to obtain a "right to sue" letter.

It is important to note that this legislation is *already* in effect. As written in the statute, the Act takes effect as if enacted on May 28, 2007 and applies to all claims of discrimination pending on or after that date.

Finally-note that the law addresses only discrimination in compensation cases *e.g.* wage cases and does not change case law on demotions, terminations, and other forms of discrimination. Expect all claims filed with the State and Federal fair employment practice agencies to add a new allegation of "discrimination in compensation."

In our next monthly newsletter, we will discuss the new State workers Notification Act-for New York companies-requiring advance notice of layoffs! As always, if you have any questions, please contact me at Abpearl@pmpHR.com. •



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Quality Works



Learn to Talk to Your Mechanic

By Kelly Hiner, Enterprise Fleet Management

In today's world of computerized engine controls, electronically controlled transmissions and active suspension systems, it is becoming increasingly more difficult for a service technician to diagnose and repair a vehicle just by listening to a driver's brief, non-specific descriptions of the problem.

For businesses with medium size fleets, encouraging drivers to be as specific as possible can save time and money, as well as help avoid repeat problems down the road.

The more details the driver can provide, the easier it will be for the service technician to determine which systems are affected and if numerous problems could have one common cause. Details about specific conditions, related symptoms, and the vehicle's service and repair history may also help to save money for the vehicle's owner by reducing the amount of time required for diagnosis and helping to insure the appropriate repairs are made.

For instance, if the only information a technician has is that a vehicle is making a popping noise, hours can be spent checking the suspension and drive train only to find that the noise is coming from the spare tire.

In order to help a service facility fix the vehicle in a timely manner on the first visit, the customer needs to take an active role in the repair process by providing as much information as possible. If the customer can make some simple observations about the vehicle's problems, it will greatly facilitate the shop's diagnosis and repair solution.

Here are a few examples of observations that can help a shop determine the cause of a problem:

- What were the weather conditions – hot, cold or raining – when the problem first occurred?
- Does the vehicle experience the problems during turns, while braking, while driving over bumps, or during normal driving conditions?
- Is there tendency to experience the problem during the first couple minutes of operation, after it is warmed up, during braking, or while air conditioning is on?
- Were there any unusual gauge readings or service lights that went on in the dash display area?
- What color is the fluid leaking onto the garage floor? Also where is the leak located in respect to the front, middle, rear, right or left side of the car?

Although these observations might seem pretty basic and of no real importance, they can significantly help the

service technician more accurately and efficiently diagnose and repair the vehicle.

Spot the Warning Signs

In addition to providing detailed information, it helps to be able to recognize warning signs that something is wrong with a vehicle. Unfortunately, many drivers don't know what constitutes a sign or they don't take the time to find out what the problem is. By then, it may be too late to avoid more costly repairs, longer down time, or ultimately, being stranded when a complete breakdown occurs.

Every vehicle has its own "personality," including a normal range of noises, vibrations and smells. Therefore, it's a good idea to pay attention to these variables for a couple of weeks by listening for squeaks and rattles when driving over rough pavement and noticing any pulling or brake pedal pulsation during acceleration or braking. After becoming accustomed to the vehicle, it can be easier to identify what doesn't seem to fall within the normal parameters.

Servicing and repairing today's vehicles is more complex and expensive. But, by educating drivers to be able provide better information to the service technician, companies will reap the rewards.

Kelly Hiner is Group Sales Manager for Enterprise Fleet Management in New York and can be contacted at 973-709-2499. Visit the company's web site at www.enterprisefleet.com or call toll free 1-877-23-FLEET. •

Replacing R-22 Systems with R-410A

The Air Conditioning Contractors of America (ACCA), has released a new technical bulletin for its members entitled, "Replacing R-22 Systems with R-410A Systems."

Written by ACCA's Donald Prather, this bulletin outlines the steps needed when replacing one refrigerant system with another. R-410A cannot be used as a "drop-in" replacement for R-22; the higher operating pressures will damage R-22 compressors and components. Additionally, many R-410A units have a larger footprint than their R-22 counterparts. When complete HVAC system change-outs are planned, space allocation must be reevaluated.

According to the bulletin, "Contractors who are not installing and maintaining R-410A systems will soon find themselves unable to compete in the HVACR industry." Effective January 1, 2010, R-22 may not be used in new systems, and HVACR equipment manufacturers have increased production of systems that use R-410A.

The bulletin is available at no charge, for ACCA members only, at www.acca.org/bulletins. •

Residential Duct Standard “Manual D” Revised and Updated

ACCA’s “Manual D,” the national standard for residential duct design, has been revised and improved for the first time in more than a decade. The new “Manual D” is now available.

ACCA has released a revised and improved version of “Manual D - Residential Duct Systems.” This book, which is ACCA’s single most bestselling technical manual, is the industry standard for residential HVAC duct design.

The new version of “Manual D” maintains the popular and accurate procedure of the classic manual, but has been enhanced with a number of new improvements, including:

- New equivalent length values for flex duct junction boxes
- Updated guidance, with examples, for variable air volume (VAV)
- Impacts of excess length, sag and compression in flexible ducts

Authored by Hank Rutkowski with the oversight of a committee comprised of professionals from different sectors of the HVACR industry, the updated “Manual D” was approved as the national standard for residential duct design by the American National Standards Institute (ANSI) on January 22, 2009.

The Manual D principles and calculations can be applied to constant volume systems and zoned variable air volume systems, over a full range of modern construction materials.

According to David Hutchins, chairman of the ACCA Technical Services Committee and president of Bay Area Air Conditioning in Florida, “The new information about proper flex duct design alone makes this new edition of Manual D a must-have.”

“Manual D” may be purchased online (look in “Technical Manuals, Standards & References” in ACCA’s online store) or by calling 888-290-2220.

“Manual D” is a registered trademark of the Air Conditioning Contractors of America. •

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Greater New York ACCA To Donate To Reading Is Fundamental

Reading Is Fundamental (RIF) has been a favorite charity of ACCA for many years at the Annual Conference and Indoor Air Expo, where ACCA members have donated books and money to an area school for their reading programs.

This year, the Greater New York Chapter donated \$250 at the conference. •

Statement From Stuart S. Zisholtz, Esq.

There has been some confusion about the time frames associated with filing a mechanic's lien and commencing a payment bond claim. Some members believed that they had plenty of time to file a mechanic's lien on a particular project when, in fact, their time expired.

As a result, I was requested by a few members to once again publish the time frames associated with filing a mechanic's lien or bringing a claim under a payment bond.

Below are the various time frames associated with each procedure. Do not, however, wait for the last day to file your lien. Once the general contractor has been paid by the owner, your lien is worthless.

Furthermore, many payment bonds contain strict requirements that notices be served on various parties within a specific time frame. Once that time frame expires, your right to recover may be jeopardized.

Remember, Never Let Your Lien Time Run Out!!!

For a free copy of a pamphlet pertaining to mechanic's liens or payment bond claims, please 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. •

Lien Time Frames

Private Improvement:

One family (also two family suggested) 4 months from date of last item of labor or material

Commercial and more than one family 8 months from last item of labor and materials

Duration of Lien 1 year

Renewal:

One family dwelling Court Order
More than one family and Commercial, first year renewal Notice of Renewal

After one year of more than one dwelling and commercial Notice of Renewal

Public Improvements:

Lien 30 days after completion and acceptance of job

Duration 12 months
Renewal Notice of Renewal

Payment Bond Notice:

Notice Directed to any two of Owner, Bonding Company or Contractor Usually 90 Days

Time for Commencement of Action Usually 1 year

Direct Contract with Principal Usually no notice required

Time for Commencement of Action Usually 1 some times 2 years



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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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