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Greater New York Contractors' NEWS



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President's Message



Anthony N. Carbone

The summer to remember of blazing hot temperatures right through the beginning of September has kept the need for air conditioning at peak levels.

Contractors could not have asked for a better gift after a horrific economic downturn. The summer is waning and the government and economic reports are showing a slower than expected recovery. Some are forecasting a double dip recession. It is unknown what HVAC contractors can expect for the upcoming fall season. "Cautious optimism" are the words being used. Many contractors flush with cash still have not fully

Turn to President's Message on page 3

September 16th Meeting

HOW TO NARROW THE FIELD OF VEHICLE TRACKING PROVIDERS

The GPS vehicle tracking & management industry is growing rapidly, with new providers entering all the time and new product offerings that often create confusion for contractors who simply want the right option for their business. ACCA member Leslie Gross from SageQuest will present a clear picture of the vehicle tracking systems available today, then discuss the key criteria you need to narrow the field of providers to the most valuable option for you.

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PRESIDENT'S MESSAGE *Continued from page 1*

recovered from the shell shock of a near economic stand still that occurred from October 2009 through March 2010. The forecast looked bleak and if another non-summer was to occur as it did in 2009 it might have been curtains for some less established and poorly capitalized HVAC outfits.

What's next in our ever changing industry seems to be the franchising of brand name service and installation companies. We have seen the transformation of Main Street America from local Mom & Pop shops to the big box era. People are familiar with McDonalds, Dunkin Donuts, Starbucks, Target, Wal-Mart, Subway and IHOP. These familiar names have cropped up in even the smallest towns. What do they provide to the consumer? It's consistency. It's a perceived quality. No guessing whether you are in California or New York a Big Mac is still a Big Mac in either state. A blueberry muffin is still the same for Dunkin Donuts whether it is from Florida or Texas. There is familiarity. People like when they know what they are getting. Well can you transform a contracting outfit to provide the same quality service or installation expertise from individuals regardless of their location? Is it really the same recipe that can be administrated regardless of the state or location of the prospective job???

Well one thing is for sure, you can get people to buy into branding. We did see it with "Roto-Rooter," sewer

drain clearance. People like the "jingle" and the marketing worked. Whether the quality of drain cleaning was consistent, I'm not sure.

It was recently reported that Direct Energy Services has purchased the assets of Clockwork Home Services for \$183 million dollars. They will become the largest provider of heating, cooling, and plumbing services to more than 3 million households annually in North America. The result will be annual revenues of almost \$4 billion dollars. These 3 franchise brands that are fast growing are One Hour Heating and Air Conditioning, Benjamin Franklin Plumbing, and Mister Sparky. Their sales combined are approximately half a billion dollars. Eddy Collice, President of Direct Energy Services, reports 8.5 million service agreements in the United Kingdom (UK).

These are staggering numbers. Traditionally, we have not seen this type of rapid growth under a franchise name, except for Keyspan Home Energy Services, which had recently sold off its installation business to the UK-based company Home Serve. Stay tuned... — **Anthony N. Carbone**

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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ACCA NIGHT OUT WITH THE METS



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ABCO Refrigeration Supply Corp. truck dominates entrance at CitiField as workers distribute tee shirts, water and other goodies to ACCA members attending the Chapter's Night Out With The Mets on July 31st.



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HVAC Industry Continues to Improve and Outlook Remains Positive — UBS Survey

According to a UBS HVAC Survey conducted in June and reported in August, conditions continue to improve, in the HVAC industry and the outlook remains positive.

The survey was taken among major HVAC industry participants, including contractors, equipment providers / distributors, and service providers, in the United States and received 120 responses. Key takeaways were

- **HVAC current business conditions improved, but remain modestly worse than “normal.”** Respondents rate current conditions at 4.2 (0-10 scale), materially better than in our prior four surveys from October 2009 through April 2010. Conditions were stronger in the residential end market (4.4) than in commercial (4.0).

- **81% of respondents believe HVAC market conditions have stayed the same or improved over the last few months.** 44% of respondents indicated that business conditions are improved, 37% believe the environment is unchanged, and 19% have seen the market deteriorate over the last several months. Results were materially better relative to the prior four surveys. In UBS's last survey conducted in April, 40% of respondents indicated that business conditions remained status quo, 31% thought the environment had improved, and 29% cited deterioration in recent months.

- **89% of survey participants expect the HVAC market to either stay the same or improve next year.** 46% of June respondents indicated that they anticipate market conditions will improve over the next twelve months, while 43% believe they will be unchanged. Only 11% of respondents expect deterioration over the next year. This result shows a decline in conviction relative to the April survey, where 55% marked they anticipated conditions to improve over the next twelve months, 36% responded unchanged, and 9% expected the environment to worsen. The outlook for residential market conditions (52% expect improvement) were materially better than for commercial market conditions (43% expect improvement).

- **Service/maintenance deferrals are still common but declining.** 45% of respondents think deferrals are more common year-on-year, 33% indicated that deferrals were unchanged, and 23% consider service/maintenance deferrals to be less common. This marks a positive change from the February survey where 59% of respondents cited an increase in deferrals, 27% indicated that deferrals were unchanged, and 15% noted a decrease in service/maintenance deferrals.

- **HVAC replacement work has also decreased relative to last year.** 45% of participants reported that replacement deferrals were more common, 29% marked that they were

unchanged, and 26% noted replacement deferrals were less common. This result is an improvement relative to the prior survey where 55% of respondents indicated that they were seeing a decrease in replacement work relative to last year, 29% of respondents observed no change, and 24% noted an increase in replacement work. Combined with the prior question, UBS believes this result continues to indicate that there is pentup demand in the U.S. HVAC market.

- **HVAC inventory levels remain “lower than normal,” and appear little changed from recent surveys.** 61% of survey participants believe inventories are below levels they deem as typical, 32% consider stocks to be normal, and a modest 6% find inventories to be above usual levels. These results are consistent with the last several surveys and appear to indicate that restocking has yet to take hold.

—Survey information provided by John Ottaviano •

Reaching New Heights



ACCA associate member and co-editor of the Greater New York Contractor News, Don Gumbrecht, freefalls from 13,500 feet over Long Island's north shore in celebration of his 75th birthday in June. Don made his first tandem sky drive with two of his sons and a grandson, taking off from the air strip of Sky Dive Long Island in Calverton. “The most exhilarating thing I’ve ever done,” says Don. “And what a fun thing to do with three generations of my family.”

If you have a photo or a story to tell, we would like to hear from you to report in this newsletter. Email it to the ACCA office at accany@yahoo.com or to Don Gumbrecht at dgumbrecht@aol.com.

New 'Smart' Metal Said to Increase Cooling Efficiency by 175 Percent

From *achrnews.com*

Researchers at the University of Maryland are developing a new "thermally elastic" metal alloy for use in advanced air conditioning and refrigeration systems that is said to have the capability to cool homes or refrigerate food 175 percent more efficiently than current technology.

The Maryland team will soon begin testing of a prototype system, with economic stimulus funding from the U.S. Department of Energy. The new grant is part of a program designed to bring "game-changing" technologies to market.

"Air conditioning represents the largest share of home electric bills in the summer, so this new technology could have significant consumer impact, as well as an important environmental benefit," said Eric Wachsman, director of the University of Maryland Energy Research Center (UMERC).

"The approach is expected to increase cooling efficiency 175 percent, reduce U.S. carbon dioxide emissions by 250 million metric tons per year, and replace liquid refrigerants that can cause environmental degradation in their own right," Wachsman added.

The lead researchers on the project, Ichiro Takeuchi, Manfred Wuttig, and Jun Cui, materials science engineers in Maryland's A. James Clark School of Engineering, have developed a

solid coolant to take the place of fluids used in conventional air conditioning and refrigeration compressors. According to the research team, their system represents a fundamental technological advance.

In the next phase of research, the team will now test the commercial viability of their smart metal for space cooling applications. The 0.01-ton prototype is intended to replace conventional vapor compression cooling technology. Instead of fluids, it uses a solid-state material — their thermoelastic shape memory alloy.

This two-state alloy alternately absorbs or creates heat in much the same way as a compressor-based system, but uses far less energy, the Maryland team stated. Also, it has a smaller operational footprint than conventional technology, and avoids the use of fluids with high global warming potential.

General Electric Global Research and the Pacific Northwest National Laboratory are partnering with the University of Maryland on the project.

The Department of Energy has given the team \$500,000 as part of its Advanced Research Projects Agency-Energy (ARPA-E) program, which is designed to advance research from the laboratory to the marketplace. The grants are funded with money from the federal American Recovery and Reinvestment Act.

"These grants are highly competitive and require a demonstration that the technology has genuine commercial potential," Wachsman said. •



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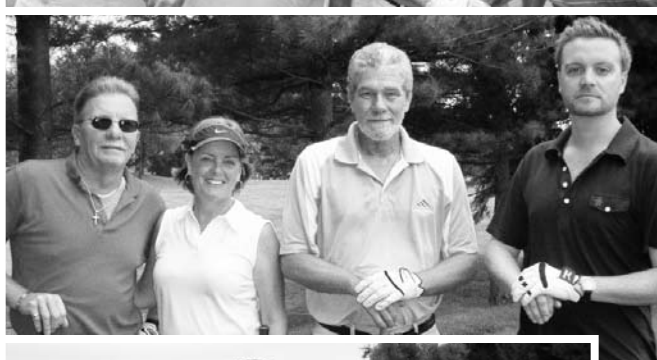
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People & The Workplace

By Alan B. Pearl,

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Employee Classification

Employers may face new stringent government investigation into the classification of their employees as contractors. The Employee Misclassification Prevention Act was introduced to Congress in April of 2010 and is currently being discussed in the appropriate House and Senate committees. The Bill, if passed would require employers to undergo a wave of new compliance measures to ensure that employees being classified as contractors are indeed such. The act is being used both as a tool to protect workers and to generate revenue. The Department of Labor's 2011 Budget report stated the following:

"Individuals wrongly classified as independent contractors are denied access to critical benefits and protections to which they may be entitled as regular employees. Worker misclassification also generates substantial losses to the Treasury and the Social Security, Medicare and Unemployment Insurance Trust Funds."

The Bill would require employers to maintain certain specific employment records and would compel employers to inform employees of the differences between employees and contractors. The Bill would also subject certain industries to automatic audits subject to the authority of the Secretary of Labor.

Employers found to have misclassified their workers would be subject to penalties as high as \$1,100 per individual for first time violators and \$5,000 per individual for repeat or willful violators. The Act calls for employers to be much more organized with their record keeping of the work that employees do. Now is an appropriate time for the review of all employee classifications. This office can assist you in this process. All inquiries should be directed to ABPearl@pmpHR.com. •

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Why Federal Tax Credits Aren't Enough

By John Ottaviano

I have often said that the growth of energy efficient HVAC products is directly proportional to the Federal and State subsidies set aside specifically to target such. The Renewable Energy Act and the Recovery and Reinvestment Act do not go far enough to help directly expand the demand for energy efficient HVAC products because the incentives are exclusive of a large portion of American households. Specifically, in order to get the full benefit of a \$1500 Federal Tax Credit, you must have at least \$1500 in Federal Tax liability. This leaves out a vast swath of American society. Essentially, the only folks that a Federal tax credit benefits are those who don't really need to be incentivized in the first place.

A recent article in the HVACR News supports this argument with statistics. Specifically, the article denotes that "roughly 43.4 million tax returns were not liable for any federal income tax in 2006. These 43.4 million tax returns represent approximately 91 million individuals who paid zero federal income tax. And there were another 15 million households that did not file a tax return at all. In total, there were roughly 121 million Americans — 41 percent of the U.S. population — outside of the federal income tax system in 2006."

The only real way to have a significant impact is to provide grants, direct rebates, no interest financing and research and development subsidies. Tax deductions are just not enough

of an incentive for the average American household to justify the investment in energy efficient appliances, especially higher ticket items like HVAC. Until this adjustment is made in policy, American's conservation efforts will be directly ruled by their income level, the performance of the markets and individual ability for discretionary spending. •

ACCA Offering E-Books

ACCA Educational Institute has announced that it will be releasing its technical manuals and standards in electronic format for e-readers.

For decades, the ACCA environmental systems library has been the industry (and in most cases, ANSI-recognized) standard for designing, installing and maintaining indoor environmental systems. Since 2002, the organization has updated and expanded a number of these important guides for 21st century construction methods and materials.

Now, ACCA has committed itself to 21st century distribution as well, with a new plan to make its core publications available in a variety of electronic formats, to as wide an audience as possible.

In June ACCA made the first two of its publications available in electronic format. *Residential Duct Diagnostics & Repair* is a manual explaining how to diagnose problems with duct systems and the benefits of repairing them. *LEED, Follow or Get Out of the Way!*, by Ellis Guiles, is the story of how a commercial contractor discovers the profit to be made from "green" contracting.

These manuals can be purchased and read on a computer, an iPad, an iPhone, a Kindle, an Android phone, or a BlackBerry. "Because we don't want to require people to purchase a specific device in order to benefit from our publications, we are using the Kindle format, at least initially," Holland says. "The Kindle platform allows for viewing and searching of books on just about every device possible, including a desktop computer, using free Kindle reader software available from Amazon."

Information on ACCA's e-books (the first two of which are available for a limited time at more than 70% below the regular print price), including purchase and software information, is available online at www.acca.org/ebooks. •

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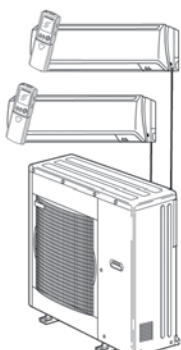
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Safety Drives Traction and Stability Control

By Kelly Hiner/Enterprise Fleet Management

It has often been said that "necessity is the mother of invention." This definitely is the case for the advent of electronic traction and stability control systems that are designed to enhance a vehicle's performance when driving conditions are less than ideal. In terms of adapting technology to improve safety, electronic traction and stability control systems deserve high marks.

Both systems represent the next generation of advances that began with the antilock braking system (ABS), a standard feature on most vehicles that works by sensing and preventing wheel lock-up, improving traction and steering during hard braking. Contrary to popular belief, antilock brakes don't help the tires stop a vehicle any quicker; they just stop them more safely because the driver can maintain steering control. Because an ABS allows drivers to steer while applying maximum braking, there is greater vehicle stability in an emergency and this can make a significant difference in avoiding obstacles.

Whereas ABS focuses on eliminating lock-up in braking situations, traction control, also called acceleration slip regulation (ASR), regulates wheelspin during acceleration. It is specifically designed to ensure maximum contact between the road surface and the vehicle's tires when accelerating from a complete stop or speeding up to pass another vehicle, particularly under less than ideal road conditions. The technology can monitor wheel speed, cut engine power or even apply the brakes to optimize contact between the tires and

road surface.

Stability control incorporates ABS and traction control to increase traction during potential side-skidding situations. The stability control system utilizes speed sensors on each wheel, as well as steering-angle sensors and a hydraulic modulator. When sensors detect that the vehicle is about to travel in a direction different from the one indicated by the steering wheel position, it automatically brakes the appropriate wheel to help the driver maintain control. In many cases, engine power also is reduced.

Optimal brake performance also depends on selecting a vehicle with the right components. One of the most critical considerations is the gross vehicle weight rating (GVWR). The GVWR refers to the maximum a vehicle can weigh at any time. According to industry standards established by manufacturers, the GVWR includes the net weight of the vehicle, plus the weight of the driver and any passengers, as well as fuel, cargo and any aftermarket equipment or accessories added to the vehicle. Exceeding the GVWR by regularly overloading a vehicle not only reduces its service life significantly, it can cause premature mechanical failures on various driveline components, including the brakes.

Because brakes are a normal wear item for any vehicle, sooner or later they will need to be repaired or replaced. However, proper brake maintenance will reduce these costs and possibly help avoid more expensive rotor or drum replacement by making sure brakes never get to the metal-to-metal point.

How a vehicle is used and how it is driven have an enormous impact on brake life. The brakes on vehicles that are driven in heavy commuter traffic get hot and usually experience more wear than those on vehicles that are used mostly for highway driving. Recommended maintenance needs to be adjusted accordingly.

Still, the bottom line is that all the technological advancement in the world can't protect a bad driver. The best way to reduce stopping distance is to make sure drivers slow down and pay attention to the road at all times.

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.



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Honeywell will present an online meeting to discuss its *Commercial Vision Pro 8000 Thermostat* on Wednesday, September 15, 2010 at 8:00 AM. The program will cover the following information will be covered:

- Installation Procedures
- Configuration Menu
- Scheduling Options
- Thermostat Operation
- Q&A

Those wishing to join the web portion should go online to www.honeywell.com for an application. If you wish to join the audio portion dial 1-888-443-7713 and enter the Meeting Number *2147013*. Be sure to enter the star key before and after the Meeting Number.

(This information was provided by Joseph Stranieri) •

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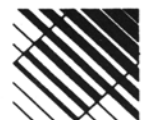
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Statement From Stuart S. Zisholtz, Esq.

Client Bankruptcy Not All Bad

With the economy slowing down and money being tight, many of us are seeing companies closing the door or filing for bankruptcy. We assume there is no chance of getting paid and that we will have to close our file and write off the loss. Sometimes, but not always, a bankruptcy proceeding could be a blessing in disguise.

The purpose of a bankruptcy proceeding is to permit the bankrupt to reorganize, discharge its debts and obtain a new start. Many times, however, in obtaining a new start the unsecured creditors do not receive a dime. In some instances, however, you can increase the likelihood of receiving payment.

Presently, we are involved in a proceeding where we represent the general contractor who performed work in a restaurant in New York City.

The general contractor failed to receive payment in full and the restaurant filed a petition in bankruptcy. As a result of the restaurant failing to pay in full, the general contractor filed a mechanic's lien on the property as well as the leasehold.

A contractor is permitted to file a mechanic's Lien even

though a bankruptcy proceeding has been filed. It cannot commence foreclosure proceedings against the bankrupt debtor but it can secure its rights by filing a mechanic's lien.

We are now in the process of resolving the matter and the general contractor is receiving full payment.

Moreover, if the restaurant financed the project, the funds received are trust funds to be applied first for the payment of the contractors. The trust funds are not part of the bankruptcy estate but, in fact, are outside the bankruptcy proceedings. Thus, a contractor can compel an owner to pay the outstanding sum due with the trust funds.

In addition, a bankruptcy proceeding may result in a Trustee being appointed.

Depending on the type of proceeding instituted in the



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Bankruptcy Court, the assets of the bankruptcy estate may be reviewed by a Trustee who will administer the assets of the bankrupt to the various different creditors. This prevents the bankrupt debtor from siphoning out all of its funds.

There the Trustee pursues a claim on behalf of the bankrupt debtor, the funds received are paid exclusively to those contractors who worked on that job. The funds received are not distributed to the other creditors.

Finally, the Bankruptcy Court will oversee the bankruptcy proceeding. The bankrupt debtor cannot prolong the proceeding and avoid filing a reorganization plan. Any delays may result in the Bankruptcy Court dismissing the bankruptcy proceeding or imposing sanctions.

Never let your lien time run out!

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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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