

Special Edition – Editorial

The Storm Begins!

Last Friday, during my sales meeting, I received a frantic call from a trucking company. The owner of the trucking company indicated that;

- They had been referred to me by one of my readers;
- They were being audited, by the State, because they utilized independent contractors;
- The State had given them 15 days to respond to reasons why they should not be assessed for 5 years of past tax penalties, because the independent contractors were actually employees.

The name of the company or the size of the company is immaterial. However, what transpired during the conversation has significant impact.

As I began discussing, with the owner of the trucking company, what had happened, the owner indicated that;

- The State contacted them.
- They indicated that they believed that their independent contractors were employees.
- The State “threatened” them, and;
- Implied they were going to assess the company 5 years of past taxes.
- This was a small trucking company, but the fine would be, in excess, of \$1MM.

The State further indicated:

- “Don’t think they can get out of this?”.
- “If you think you can live on your social security, you’re wrong”.
- “We can take that, also.”

According to the owner of the trucking company, the state went on to inform them that;

1. The State is initially auditing small trucking companies that utilize independent contractors to build up case law, and;
2. When they build up sufficient case law, then they’re going to attack the larger companies.

The long and short; this was probably one of the most disturbing telephone calls I’ve received to date. When my sales staff learned of this conversation, they were in shock. I have been stating, for the last 6 months, this is a very serious matter;

- I’ve stated that carriers need to distance themselves from this exposure as much as possible.
- You need to open your eyes and recognize that anybody that utilizes independent contractors can be a target, and;
- You further need to have your contract reviewed, immediately, by a law firm that understands the issues.

MANAGEMENT CONSULTING
OPERATIONAL REVIEWS •
DIVESTITURES •
ACQUISITIONS •
MERGERS

THE AHERN ADVISORY

in this issue

The Storm Begins!



Ahern & Associates, Ltd.

Accredited Member
National Bureau of Certified
Consultants Inc.

April 28, 2010

Oh, did I forget to mention that one of the owners is 76 years of age.

I've stated, on many occasions, that trucking is as Middle America as you can get. Trucking is made up of many small family operations that are just trying to get by;

- 60% of trucking companies are 1 – 99 trucks.
- Their business represents their retirement account.
- To be threatened by the very legislative body that you expect to protect you, (if you're an honest abiding citizen), is despicable.

I recognize that the new laws were devised to challenge people and companies that were trying to circumvent the law.

However, in the trucking industry;

- Independent contractors are part of the free enterprise system.
- Many drivers want to own their own trucks and want to own their own business and don't want to be classified as employees.

Now, the rules have changed.

- The rules have changed because the government is out of money and the unfortunate part of this process is, these family companies can lose everything that they've worked for, for years.

The above is a true story; the comments were not fabricated, in any way shape or form, and the individual that I spoke to is completely demoralized. This episode sets the stage for what's ahead in the future. Don't bury your head in the sand; do something about it now;

- Locate a transportation attorney.
- Have your contract reviewed.
- Also look for ways to distance yourself from this exposure, so that it will make it more difficult to be placed in this position.

For the life of me, I can't understand why the free enterprise system is being challenged in the trucking industry because trucking moves 87% all products throughout the United States. However, the financial strains of the economy, hasn't helped the trucking industry. The banks have been assisted, the automotive industry has been assisted, Wall Street has been financially assisted and the insurance industry has been financially assisted; but no financial assistance has been provided to the trucking industry, or Middle America.

Ahern has done a substantial amount of research into this matter, and there is one law firm that we recommend;

- They have a special logistics division.
- They've reviewed this exposure extensively, and;
- If any of my readers are interested, they can email me or call me and I will forward their name for your review.

QUOTE OF THE WEEK: "Ignorance is not bliss. Stupidity is governed by a person's inability to grasp reality" (Andy Ahern)