

# *Virginia*

## *Regulatory Hot Tip 2012 – 6*

*Professional Insurance Agents Association of Virginia and DC, Inc.*

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### Due Diligence Employment Issues

If you are considering acquiring someone else's insurance assets, specifically a book of insurance business, or selling your own, due diligence must become your new best friend. In a 2011 Hot Tip, we discussed due diligence generally, and divided the due diligence process into six different categories: Corporate Books and Records; Entity Culture or Personality; Client, Prospects, Past Client, Vendor Lists; Regulatory Matters; Employment Issues; Existing Contracts; and Miscellaneous. In a follow-up 2011 Hot Tip, we focused on the importance of reviewing Corporate Books and Records. Today, we will highlight a second category of the due diligence process, Employment Issues.

Whether you are buying or selling a business, it is critical that you review the employment records during your due diligence process. If you are selling your business, you should do this to ensure a smooth transition free of any unsuspected legal impediments. If you are acquiring a business, this due diligence process is essential to make certain you are actually getting what you think you are getting.

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Here are some important employment documents you should review before you buy or sell (if they are applicable to the business in question): (1) an employment organizational chart, (2) an employee handbook or policy book, (3) employee contracts, (4) union contracts, (5) strike record or record of handling labor issues, (6) legal documents such as W-4s and I-9s, and (7) grievance complaints.

As you review the documents listed above, consider the following key questions before you buy or sell:

- (1) Who are the key employees or major sales production people?
- (2) For these key employees, what is the quantity of new and renewal business? How does this compare to other employees and industry standards?
- (3) Do key employees have written employment contracts? Do they include non-compete or non-solicitation provisions?
- (4) How do the number of employees, the hours they work, and their wage rates compare to the industry standard?
- (5) How many employees work in production, sales, administration, etc.?
- (6) Does the employee handbook or policy book contain binding non-compete provisions and/or non-solicitation provisions?
- (7) What type of pension, profit sharing, insurance, stock bonus, deferred compensation, and severance plans are currently offered to employees?
- (8) Does the company offer 401K or other retirement plans?
- (9) Does the company have key man insurance on any employees?
- (10) Are copies of reviews/reprimands, as well as suggestions for employee development included in each employee's personnel files?

Remember, whether you are buying or selling, the lives of employees are involved. Make sure that you are aware of all of your obligations under any buy/sell agreement.