

Virginia

Regulatory Hot Tip 2009 –One

Professional Insurance Agents Association of Virginia and DC, Inc.

GETTING YOUR BUSINESS HOUSE IN ORDER TIPS TO BEGIN 2009

Like the proverbial shoemaker, we business owners are often guilty of taking care of everyone else's problems, but letting our own house remain out of order. No one likes to revisit old documents (particularly if they happen to have been written by an attorney!). But as you move into 2009, which is almost guaranteed to be one of the most challenging business cycles in our life time, please take time out to care for yourself, your family and your business.

Survey your business files, paying particular attention to reviewing (and perhaps revising) the key contracts, non-competes, agency policies or other similar items which protect your business. Just as you need to review and update your personal estate plans from time to time, you need to take that same care with your professional documents.

I know that one of the reasons you don't dust off these corporate documents and review them is because they are boring. In the dark days of winter, thinking about reviewing your employee manual, the smoking policy, dress policy, or even the restrictive covenants that you have with your independent sales contractors, inside sales people or employees sounds about as much fun as watching paint dry. But, you need to make sure that those business arrangements are still relevant to today's business climate.

For example, do you have a restrictive covenant in your employment or independent sales agent agreements which provides that someone can not write insurance business or solicit your customers within a three mile radius of your business location, or something similar? But now that you have relocated your agency business is that restrictive covenant still offering you the protection you were seeking? Is your personnel manual or any of the office policies that you put into place five or more years ago obsolete? Do you have the mandatory employee notifications posted properly?

This regulatory hot tip is designed to provide accurate and authoritative information about the subject matter covered as of the date of such hot tip. The statutory authority and substantive information contained in this hot tip should be continuously verified as it is subject to change with the passage of time. It is provided with the understanding that the provider is not engaged in rendering legal, accounting or other professional advice or counsel. If legal advice or other expert assistance is required, the services of a competent professional should be secured. This publication is authored by JoAnne L. Nolte, JD, CIC, CPCU, FLMI, CLU, who practices at The Nolte Law Firm, P.C., 1427 W. Main Street, Richmond, VA 23220. Her telephone number is: (804) 658-4518. Jo's practice is concentrated in matters of a general business nature as well as regulated industries (telecommunications, insurance, financial, water & sewer, energy related matters, and government relations). Jo has served as attorney for the Virginia State Corporation Commission and as in-house counsel to a privately owned national corporation. Non-traditionally, Jo owned and operated an insurance surplus lines brokerage agency and an insurance consulting business.

Or, have you and another agent been working together on a joint marketing arrangement that has been working successfully for both of you, but has never been reduced to writing? Waiting until there is a problem might prove difficult, and may be devastating to an important revenue stream.

Another challenge occurs when one spouse works in the agency and the other spouse either does not work in the agency at all, or does work there but does not have an ownership interest. What happens to the non-owner, surviving spouse when the owner-agent dies? A good succession plan can help. Do you have one? Have you reviewed it lately?

If you have succession planning agreements involving other agents, have they been reduced to writing? Is your spouse aware of the terms and conditions of such agreements? Has your spouse bought into the concept? And is the business valuation formula that seemed appropriate three years ago still valid?

Don't be caught in a situation in which you believe documents read one way when in fact they read another. Get professional help if you have any doubts. You spend all of your days making sure that your clients are fully insured for their businesses and personal lives. Make sure that you take a moment and do the same for yourself, your family and your employees.

All the best for a GREAT 2009!