ORCA TALES

May 2010 *"We can tell you more about them than their mother"* **Volume 17 Issue 5**

A Safe Workplace is Everyone's Business

Developing an Emergency Response Plan

A good emergency response plan helps companies not only protect its employees but its community, and the environment. Emergency response plans are a dynamic measure that must include everyone in the workplace. Get together with other employees and use these tips as a guide to help set up an emergency response plan. Once you have a plan in place, it is critical that the plan is practiced with all employees—including evacuation plans.

- ♦Teach all employees exits to use during an emergency.
- ♦Know the location of and how to use all portable fire extinguishers throughout the building.
- ♦Cover all types of emergencies in the plan, including fire, medical, suspicious persons or devices, accidents, hazardous materials, robberies, theft, and natural disasters.
- ♦Ask your employer to provide annual first aid and CPR training for all employees. Courses are generally available through the local Red Cross chapters or hospitals.

As you create an emergency plan think about the following.

- ♦Consider the worst-case scenario. What happens if you cannot exit the building by the staircase or certain outdoor exits? Are there other alternatives?
- ♦Make special emergency plans for co-workers who are disabled or may require assistance during an emergency.
  What about visitors? How are they identified? Who is responsible for getting them out of the building during an emergency?
- ♦What will happen to the business if the electricity is off for more that 24 hours? What is the back up for payroll and bill paying?
- ♦What should you do with a suspicious piece of mail?

According to the Federal Emergency Management Guide for Business and Industry, human error is the single largest cause of workplace emergencies and can result from:

* Poor Training	*Misconduct	*Poor Maintenance
* Substance Abuse	*Carelessness	*Fatigue

To get more information on how you can develop your emergency response plan, contact the Federal Emergency Management Agency. It works with state and local communities to develop emergency response plans. It also trains citizens and emergency professionals on how to respond if there is a crisis. 800-480-2520; www.fema.gov/library/bizindex.htm.

When Emergencies Happen
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- ♦Avoid panic by staying calm, using common sense, and getting help when needed.
- ♦Know what the plan is for different emergencies. Review plans mentally. Think about what it would be like if the electricity was off or it was nighttime.
- ♦Seek out and remember the location of at least two exits you could use in an emergency.
- ♦Evacuate buildings in an orderly and rapid fashion upon the request of authorities, activation of fire alarm, or if a situation appears to be life threatening.
- ♦Know the location of fire extinguishers and medical kits.
- ♦Have a post-evacuation meeting place and know its location.

NEVER

- ♦Delay in reporting an emergency to the designated person in your office.
- ♦Use elevators during a fire or fire alarm activation.
- ♦Cross police barriers without authorization.
- ♦Jeopardize your life or the lives of others by attempting to save company property.
- ♦Lock fire exits or block doorways, or stairways.

What is Bankruptcy?

Bankruptcy is a process under federal law designed to help consumers and businesses resolve debt problems. Most people who file for bankruptcy do so with the assistance of a legal professional.

The two common types of consumer bankruptcy are Chapter 7 and Chapter 13.

Chapter 7
In Chapter 7 bankruptcy, certain non-exempt assets may be liquidated to pay off as much of the debt as possible and the remaining debt will be discharged. Non-exempt properties are assets or belongings that are not considered protected under bankruptcy law. Consumers must provide detailed financial information when filing bankruptcy so the court can determine which assets may be sold.

Generally, not every type of debt can be discharged in a Chapter 7 bankruptcy, however many unsecured debts may be dischargeable.

Filing a Chapter 7 bankruptcy stops efforts by creditors to collect on debts. To file for Chapter 7 bankruptcy you must first complete a personal finance education and counseling program, and a means test. A means test determines whether you have enough money to repay at least a portion of what you owe and can impact whether bankruptcy is a viable option for you.

This type of bankruptcy will be reflected on a credit report for ten years.

Chapter 13
A Chapter 13 bankruptcy is a court-approved plan for repayment of some or all of the outstanding debt. Typically the repayment place lasts 36-60 months. As they are repaying at least a portion of what they owe, filers may keep their assets. Many different types of debts may be included in a Chapter 13 bankruptcy.

Filing a Chapter 13 bankruptcy stops efforts by creditors to collect on debts. The filer will provide details of his financial situation and the bankruptcy court will determine the details of the payment plan, such as the percentage of debt to be repaid and the monthly payment amount.

This type of bankruptcy will be reflected on a credit report for seven years.

ORCA ❖WISDOM❖

Courage is the first of human qualities because it is the quality that guarantees all the others.

Certifications to Consumer Reporting Agencies

Before giving you an individual's consumer report, the CRA will require you to certify that you are in compliance with the FCRA and that you will not misuse any information in the report in violation of federal or state equal employment opportunity laws or regulations.

You advertise vacancies for cashiers and receive 100 applications. You want just credit reports on each applicant because you plan to eliminate those with poor credit histories. What are your obligations? You can get credit reports — one type of consumer report — if you notify each applicant in writing that a credit report may be requested and if you receive the applicant's written consent. Before you reject an applicant based on credit report information, you must make a pre-adverse action disclosure that includes a copy of the credit report and the summary of consumer rights under the FCRA. Once you've rejected an applicant, you must provide an adverse action notice if credit report information affected your decision.

You are considering a number of your long-term employees for a major promotion. You want to check their consumer reports to ensure that only responsible individuals are considered for the position. What are your obligations? You cannot get consumer reports unless the employees have been notified that reports may be obtained and have given their written permission. If the employees gave you written permission in the past, you need only make sure that the employees receive or have received a "separate document" notice that reports may be obtained during the course of their employment — no more notice or permission is required. If your employees have not received notice and given you permission, you must notify the employees and get their written permission before you get their reports.

In each case where information in the report influences your decision to deny promotion, you must provide the employee with a pre-adverse action disclosure. The employee also must receive an adverse action notice once you have selected another individual for the job.

A job applicant gives you the okay to get a consumer report. Although the credit history is poor and that's a negative factor, the applicant's lack of relevant experience carries more weight in your decision not to hire. What's your responsibility?

In any case where information in a consumer report is a factor in your decision — even if the report information is not a major consideration — you must follow the procedures mandated by the FCRA. In this case, you would be required to provide the applicant a pre-adverse action disclosure before you reject his or her application. When you formally reject the applicant, you would be required to provide an adverse action notice.

The applicants for a sensitive financial position have authorized you to obtain credit reports. You reject one applicant, whose credit report shows a debt load that may be too high for the proposed salary, even though the report shows a good repayment history. You turn down another, whose credit report shows only one credit account, because you want someone who has shown more financial responsibility. Are you obliged to provide any notices to these applicants?

Both applicants are entitled to a pre-adverse action disclosure and an adverse action notice. If any information in the credit report influences an adverse decision, the applicant is entitled to the notices — even when the information isn't negative.

Non-compliance

There are legal consequences for employers who fail to get an applicant's permission before requesting a consumer report or who fail to provide pre-adverse action disclosures and adverse action notices to unsuccessful job applicants. The FCRA allows individuals to sue employers for damages in federal court. A person who successfully sues is entitled to recover court costs and reasonable legal fees. The law also allows individuals to seek punitive damages for deliberate violations. In addition, the Federal Trade Commission, other federal agencies, and the states may sue employers for noncompliance and obtain civil penalties.

For More Information

The FTC works for the consumer to prevent fraudulent, deceptive, and unfair business practices in the marketplace and to provide information to help consumers spot, stop, and avoid them. To file a complaint or to get free information on consumer issues, visit ftc.gov or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261. The FTC enters consumer complaints into the Consumer Sentinel Network, a secure online database and investigative tool used by hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

Your Opportunity to Comment

The National Small Business Ombudsman and 10 Regional Fairness Boards collect comments from small businesses about federal compliance and enforcement activities. Each year, the Ombudsman evaluates the conduct of these activities and rates each agency's responsiveness to small businesses. Small businesses can comment to the Ombudsman without fear of reprisal. To comment, call toll-free 1-888-REGFAIR (1-888-734-3247) or go to www.sba.gov/ombudsman.

Eviction Enlightenment

Ask Eviction *Swami Johnananda*

Landlord: I forgot to put the street address on my Three Day Notice to Pay Rent and I have already served the tenant. However, I did hand deliver it, and mailed one too. Is this valid service?

Eviction Swami Johnananda: Heavens no! Better to do it the correct way. Perfection is the goal lest the Judge makes you start all over. Reserve the notice and include the whole address.

***For more wisdom from Eviction Swami Johnananda go to www.orcainformation.com*

In honor of Memorial Day, our office will be closed on May 31st, 2010

What people in the know are saying about ORCA…

"You are so quick! I seriously get your response before I get back from the fax machine sometimes! It's great. Thanks!!!"

-Amy