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Small Business Law Newsletter

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4 Steps To Avoiding Computer Abuse Losses

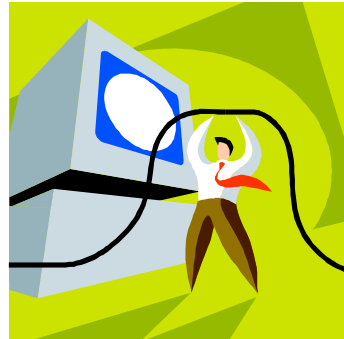
- Conduct an assessment of the corporate computer risk.
- Create and implement a computer use policy.
- Strictly and uniformly enforce the computer use policy.
- Periodically assess the need for computer use policy revisions.

Employment Law: Avoiding Computer Abuse Losses

According to the CSI 2007 Survey - commissioned and compiled by the Computer Security Institute - almost half the companies surveyed had at least one computer security incident during the year, and the average loss per company was over \$350,000.

The two largest sources of losses were (1) financial fraud, and (2) unauthorized use or access of customer or proprietary data. More than half of those organizations that were victims of computer security incidents did not report the incidents to law enforcement.

The organizations that did not report the incidents cited fear of negative publicity, and the possibility that competitors might use the negative disclosures to the organization's disadvantage as primary reasons for not reporting the incidents to law enforcement. In some cases however, the organizations simply did not know their



Insider network abuse is the most prevalent computer security problem.

legal rights or how to enforce their rights.

Hackers and issues external to the company were not the most common perpetrators of computer abuse. Organizations traced the majority of the abuse to sources within the organization. In fact, according to the CSI report almost 60% percent of organizations reported insider network abuse as

the most prevalent computer security problem.

Common examples of insider network abuse include: accessing pornography and using pirated software on company machines. These seemingly innocuous activities can leave an organization vulnerable to civil law suits and criminal prosecutions.

Some computer abuses are perpetrated maliciously by disgruntled or terminated employees. However, in many cases the abuses are done by employees acting in the absence of a clearly defined or enforced computer use policy.

An effective computer use policy is one that clearly identifies the authorized and uses of company machines and is consistently enforced. Business leaders and entrepreneurs should seek the counsel of a qualified attorney in creating a comprehensive risk management plan, which includes a computer use policy for employees.

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Business Insurance Critical To Risk Management

Entrepreneurs are skilled at growing their business, increasing revenues and managing expenses. An often overlooked, but equally essential element of sustainable business growth is a comprehensive organizational risk management plan.

Financially successful organizations are frequently targets of lawsuits from former business associates, competitors and former employees. A comprehensive risk man-

agement plan analyzes and assesses the various sources of risk facing the organization. Having the appropriate business insurance coverage in place is an important part of each business' risk management plan.

Each organization has different sources and levels of risk, and thus require different types of insurance coverage.

Common forms of business insurance coverage include: commercial and general liability, product liability, workers compensation, professional liability, and key person policies.

An organization's legal counsel - in coordination with an experienced insurance coverage provider - can identify the appropriate coverage and tailor a plan to manage the risk and outline steps to reduce the organization's exposure.

Ngwolo & Banks, PLLC was founded on the guiding vision of being a leader in client advocacy, social responsibility, and strengthening the access to effective counsel for diverse communities. Our legal approach involves listening, analyzing, advising and advocating. Our firm provides general counsel, advocacy, and transaction structuring services to entrepreneurs and emerging businesses. We take the time to listen to our clients, analyze their current situation, advise them of a course of action and advocate for their best interest.

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Identifying and protecting corporate intellectual property assets is critical for business growth and success.

Every business should have access to competent and reliable general counsel.



A significant market exists for qualified small businesses to be part of contractor teams.

Intellectual Property: Protecting Company Assets

Every company should identify and catalog its intellectual property assets. This process allows the organization to determine what rights it has, and how to protect them.

The more commonly known intellectual property rights include copyrights, patents and trademarks. However, many overlook the value of an organization's trade secrets.

An organization also has intellectual property rights in the trade secrets of the organization. A trade secret is a formula, device, pattern or compilation used within a business to create a competitive advantage.

The exact formula for creating Coca Cola is an example of a trade secret. If this trade secret were disclosed to the public any competitor could replicate the taste and adversely affect Coke's stronghold on the market.

The key to protecting a trade secret is to keep it secret. Confidentiality agreements and non-disclosure agreements are essential tools in protecting trade secrets.

Copyright protects original works of authorship. These may include artistic work like music, books and plays, and technical work like software code and applications.

Patents protect inventions. The owner of a patent has the right to prevent others from making, using, offering to sell, or importing the invention. Patents do not protect ideas, but instead protect actual inventions.

Trademarks include unique logos, brands or other identifying symbols used by an organization in its trade or business. Some trademarks are registered while others are not registered.

A qualified attorney can guide a business leader through the process of cataloging intellectual property rights and implementing a plan to protect those rights.

Contractor Teaming Arrangements

Contractor teams are common in government contracting and in the construction industry.

An organization can gain a competitive advantage by teaming with another organization that has different, but complimentary skills.

Many government contracts include provisions that require a certain percentage of the work to be done by small businesses. Some large companies also include small business or diversity requirements in their procurements.

Small businesses may lack the organizational capacity or depth to perform large contracts independently, so a significant market exists for qualified small busi-

nesses to be part of contractor teams.

The existence of small business and diversity requirements ensure that more organizations have access to the business marketplace.

Through a contractor teaming arrangement, a small business may contract with another company to perform some of the work required under a prime contract. Under teaming arrangements, the organizations involved typically do not create a new entity - like a partnership or corporation. Instead, they continue to retain their individual corporate or organizational identities, and likely continue to be competitors for other new business.

Organizations should be particularly aware of the potential legal and competitive issues related to these teaming arrangements.

One concern is the discovery and use of confidential information or trade secrets by a team member. Another concern may be the recruiting of one company's employees by another team member. These are only two of the myriad legal and competitive concerns raised by teaming arrangements. Yet, teaming arrangements are an indispensable strategic tool for many organizations.

A small business' leadership should always consult a qualified attorney prior to entering into a teaming arrangement.