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Columbus, Indiana



Know Thy Brokers: *Scam Alert*

A truck driver picks up a load in California and delivers it to Boston. Another picks up a load in California and delivers it to Pennsylvania. Neither gets paid. Both are victims of a scam. This scam targets unsuspecting trucking companies who have taken double-brokered loads from a fake trucking company or broker. In each case, the fake company collects payment for the load while the legitimate company, who actually hauls the load, gets nothing.

One insurance company became aware when one of its insured's name and identity was stolen and used as part of the scam. Here's how it works: a fake broker named Cargoland secured a certificate of insurance from our insured's agent. Two days later the address of the insured was changed to a mailbox in Los Angeles. Not only that, someone posing as our insured changed their address to that same Los Angeles mailbox on a FMCSA website.

The imposter then approached two brokers and agreed to take two loads; he presented the brokers with the altered certificate of insurance, a company snapshot from the FMCSA website (that now showed the Los Angeles address) and a W-9. The social security number on the W-9 was also a fake.

The imposter then "double-brokered" the load to a legitimate trucking company and offered to pay more to deliver the load. After the legitimate trucking company delivered the load, they were unable to collect payment. The telephone

number they had been given went unanswered. The address in Los Angeles was simply a mailbox. The imposter collected from the broker and disappeared.

Other trucking companies with brokerage sides have also advised they, too, have been "used" in variations of the scam. In one case the broker gave the load to a trucking company that turned out to have been likely a phony.

That trucking company then gave the load to Cargoland who in turn gave it to a legitimate trucking company who was unaware that Cargoland did not exist. Cargoland collected, and the legitimate trucking company got nothing. In another case, our broker gave the load to a trucking company who in turn gave it to a company called Cargo-Line. In this case also, Cargo-Line gave the load to a legitimate trucking company who delivered the load but went unpaid.

Cargoland is an intricate operation. They have people who possess excellent computer skills and have an intricate knowledge of the trucking industry. They had a full-color website with photos of its "headquarters" in San Francisco (the photo was actually that of a downtown hotel) and of its "warehouse" building in Oakland. The rest of the site was mirrored. Parts of the site were lifted and stolen from other sites. The Cargoland website has now been taken down. Furthermore, the DOT is investigating the scam and is working to prevent unauthorized changes on the FMCSA website.

Winners of “Safe & Warm” Campaign

In 2003 Marvin Johnson & Associates started a program to create a little extra incentive for drivers to get through the winter months accident free. Each year we have given away 4 gift certificates for air fare expenses worth up to \$500 each. The winners of the gift certificates are announced in mid-April. This year we had 1,028 drivers sign up to be part of the safe driving campaign.

The winners for 2007 are:

- **Walter Gordon**
Boyd & Sons, Inc.
- **Jimmie Cole**
Hyway Trucking Co.
- **Sahrina Geary**
Midwest Transport, Inc.
- **Stephanie McCormick**
Midwest Transport, Inc.

The winners will be able to use the gift certificates to pick their choice of destination. To be eligible to win, the drivers had to:

- 1 Sign and return to their company their card committing to Winter Driving Safety
- 2 Be a current client or be employed by or leased to a current Marvin Johnson & Associates client when the drawing took place
- 3 Be accident free from November 1, 2006 through March 31, 2007

We want to send a special thanks to all the drivers who signed up to participate in the safe driving campaign and kept their promise to be accident free.

ROAD CHECK 2007

June 5-7

The Commercial Vehicle Safety Alliance sponsors the annual Roadcheck with participation by the Federal Motor Carrier Safety Administration, Pipeline and Hazardous Materials Safety Administration, Canadian Council of Motor Transport Administrators, Transport Canada and the Secretariat of Communications and Transportation (Mexico). Roadcheck is now in its 19th year and is the largest targeted enforcement program on commercial vehicles in the world. In 2006, 14 trucks or buses were inspected every minute. Inspectors at 1850 locations across North America performed a near record 60,357 truck and bus inspections.

Before Roadcheck 2007 happens, be sure to remind your drivers of the need to have their log book current to the last change of duty status, to make sure that their license and medical examiners certificate are current. This is also a good time to review once again to make sure all of your equipment has updated annual inspections. One last reminder—*buckle up!*

Guidance from the FMCSA:

Designated Employer Representatives (DERs)

Near the end of November last year, we approached the DOT with the following question and we thought we would share the answer we received:

Q: Can a Designated Employer Representative (DER) also be in the random selection pool?

Our concern is the DER who is also a CDL qualified driver and is in the random selection pool. Since this person is the DER who receives the random selection picks each quarter, if the DER is selected for testing, when would he/she have to go take the test? Also, if a DER cannot be in the random selection pool, how would this be handled at a small company where everyone who is in any kind of management capacity is also a driver?

A: Yes, a DER can be in a random selection pool if all the conditions for random testing are met.

The program would have to be adjusted so the DER got no prior knowledge of the test and was unannounced and that person went directly to the collection site when someone else notified them. Practically, it would be very difficult to be a DER and be in the pool. It may be that the company will have to hire a third party administrator to make this work properly.

The Sole Proprietor's Dilemma

by W. Andrew Denny, CLU, ChFC

Let's think about what happens to the Sole Proprietor Business when the Sole Proprietor dies or becomes permanently disabled. Anecdotal evidence suggests the most common consequence of the death or total permanent disablement of a sole proprietor business owner is that the business is closed down. The accountant has a fire sale of the business assets, and gets only a few cents on the dollar, and the family takes a significant loss of value of their net worth. This loss will often be in the region of 70 to 80 percent of the value of the business.

There are three possible outcomes on the death, disablement, or serious health trauma of a sole proprietor business owner. The first is the liquidation option. In addition to the shrinkage in asset value, other problems arise if the business owner has given Personal Guarantees in support of business loans. In some situations, the business may not realize enough to clear the business debts and the Personal Guarantees may be called. This means that not only has the business gone, but the estate must repay the shortfall in the business loans. Further, if the liquidation is delayed, as many of them are, there may not be sufficient cash in the estate to pay the immediate estate debts due. This may result in the forced sale of personal assets to meet outstanding business liabilities and personal liabilities. However, the most pressing and important issue in these situations, is the question of the surviving family's need for income. The asset that used to provide the living money for the family, that is the business, has gone for a few cents on the dollar. The obvious questions that follows is: "Where is the family to get its living

money now?" If the business was the source of the family's income, then if the business is gone, and there is no alternative source of family income, then we need to create capital to replace the lost income.

The second option on the death or disability of a sole trader business owner is the business could be sold on the open market. Now this sounds like a practical option, but all too often it is a very similar outcome to the liquidation option. Given that human nature is what it is, the potential buyers will want to buy the business at a significant discount to real value, which again means that the family takes a significant loss in the value of their net worth. No one wants to pay a dollar for dollar's value when they know that the owner has just died and there is no logical successor in the family. Typically, you might realize 30¢ or 50¢ on the dollar.

The third option is the business could be continued by a suitable qualified family member, but this option too, has some issues. It presupposes that there exists a suitably qualified family member willing and able to take the business over.

1. Then the next issue to be resolved is whether the business will be gifted to the family member or whether it will be sold.
2. If the business is to be sold, what price will be paid? Will this price be fair to both the purchaser and to the deceased's estate?
3. Does the purchaser have the necessary funds to allow him or her to buy the business?

4. Does the business have any debt that is secured by the deceased business owner's Personal Guarantee? Or will the family have to leave the Personal Guarantee in place, with the obvious risk of further loss of assets if the business subsequently fails?

In a sale or gift to the suitably qualified family member, probably the most important question of all is: "Will the deceased's surviving spouse have sufficient income to maintain her or his standard of living?" If the business is to be gifted, then in all likelihood, it will be required to provide income to either the widow or widower, and the family member who has purchased or has been gifted the business.

A serious issue in many families in this situation is the question of equity between siblings. If the business is given to one of the children, is this fair to other children? Are the other children happy about this arrangement? Or do they see this takeover as disenfranchising them?

If you accept the economic principle that any income stream has a capital value, and conversely, any capital sum has an equivalent income earning value, then the income that the sole proprietor generates from his or her business has a capital value. The death or total permanent disability of the sole proprietor will, if the business is simply closed down or is sold on the open market, result in a significant shrinkage in the assets of the deceased's family.

At Marvin Johnson, we have answers to help solve the problems for the sole proprietor. Give us a call and we can discuss the best option for you and your family.

The Trap

by Michael R. Bonham, CIC

As we approach the half way point of 2007, we continue to see trends develop in the trucking industry, some better than others. Freight rates are getting more competitive, freight itself has slowed in some pockets of the Midwest, fuel prices remain unpredictable at best and ever increasing at worst. The only positive news may be that insurance liability rates are declining for the better truck companies.

With all this news comes a potential trap that many truck companies will be tempted by and some will fall for this year. This trap may not be felt immediately, but is one that could endanger the company itself in the long run.

The Trap? As pressures on the bottom line continue to mount and as insurance rates slide, many new insurance companies are entering the competition for your business, you may be tempted to spend less money on costly safety incentives and programs. After all it seems that your safety programs and even your losses may not seem to matter to the new players and it feels like there will always be someone there with a good price to write your insurance. With these circumstances, why bother with those costly safety programs. When you first think or feel that way, that is when the trap is set, when you act on that thought, you are caught.

Safety is full time, front of mind, a mindset that starts at the top of the company and must weave its way through the entire organization. Exactly because some insurance prices have declined is the reason you need to continue to reinforce the safe practices that have gotten you to this point. In fact it is a good time to take some of that savings and reinvest it in safety, in forms of newer equipment, latest in new safety features like lane divergence radar, etc. This will help you ensure the best possible rates for your company not only now but in the future. For as sure as the sun will rise tomorrow, insurance rates will rise, maybe not this year, maybe not next, but they will rise again. That fact is simply the cyclical nature of the insurance business. As the rates rise, companies will slowly withdraw from the truck insurance market again. Your phone will ring less with that myriad of agents promising to save you big dollars. That will leave the long term truck insurance specialist, both company and agents to service your needs.

At that point, the first thing that everyone will be asking for will be your loss history and what your safety programs have been. If you have fallen into the trap of cutting spending on safety to put it elsewhere, your loss history and your new insurance premiums will be affected. You will

find coverage more difficult to find and likely premiums much increased. Avoiding the trap means that you are able to ignore the pressures of using declining insurance rates, more competition and lack of emphasis on safety as an excuse to move funds away from safety to other areas. If you stayed out of the trap, your losses will be smaller and the ability for you to find coverage and coverage at a competitive price will be easier.

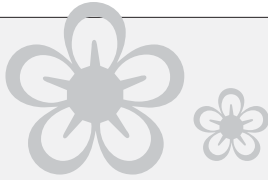
So..... the trap is set, you must decide if you let your company fall into it! Don't take the bait and reduce your investment in safety because no one may be looking over your shoulder right now from the insurance company and the players may seem plentiful for insurance. That will not always be the case. Instead, take that savings you have found in the short term and create a new program to reward the safest of your drivers and the company as a whole for keeping and thinking safety first for the long term. Our safety professionals here at Marvin Johnson & Associates are here for you whether the insurance costs are declining or rising. Safety is our mindset and we want it to be a mindset for you and your whole company... always! Call your Marvin Johnson agent or our safety staff and see what you can do to continue to operate safely and build upon that for the future. Avoid the TRAP.

Idling Regs Compendium Updated

ATRI has announced that the latest version of its Idling Regulations Compendium is now available online at: www.atri-online.org. Designed to help drivers reduce idling and comply with idling regulations throughout the U.S., the publication identifies 34 different state, district, county and city regulations that establish idling limits for commercial vehicles.

Spring Time Payroll Stuffers Available

We have a new supply of payroll stuffers addressing a couple of issues your drivers will be dealing with this Spring. If you are interested in receiving stuffers, contact Michelle Fouch at mfouch@mjai.com and she'll get them out in the mail to you. The stuffers are one-third page, brightly colored index card stock, so they stand out amid the paperwork you might normally be sending to your drivers.



Subjects for Spring...

*Be ready for change.
Allow extra time for
Safety.*

*Orange Cones...
Use this as an
opportunity
to show your
professionalism.*

Go! Exploring the World of Transportation

Iowa State University has a free online magazine for teens and young adults that explores the world of transportation and the careers they can find there.

Go to www.go-explore-trans.org to find out more.

Safety/Loss Prevention Department Seminar Training Dates 2007

May 1-2

Mid-West Truckers "DOT Compliance Seminars" - Chicago area
www.mid-westtruckers.com for more information

May 9

Yellow Van Tour "DOT Audit Review Regulation Update", 9:00 a.m. to 4:00 p.m., Plymouth, IN Swan Lake Resort (clients only, no charge)
mfouch@mjai.com to sign up

June 13

Yellow Van Tour "DOT Audit Review Regulation Update", 9:00 a.m. to 4:00 p.m., Ft. Wayne, IN (clients only, no charge) Ft. Wayne Marriott
mfouch@mjai.com to sign up

June 20

New Entrant Seminar, "You've Got Your DOT Number, Now What?" 9:00 a.m. to 4:00 p.m.
Indianapolis, IN
Indiana Motor Carrier Enforcement Offices, Ameriplex (no charge)
mfouch@mjai.com to sign up

July 18

Yellow Van Tour "DOT Audit Review Regulation Update" 9:00 a.m. to 4:00 p.m., Findley, OH (clients only, no charge)
mfouch@mjai.com to sign up

August 8

Yellow Van Tour "DOT Audit Review Regulation Update" 9:00 a.m. to 4:00 p.m., Wadsworth, OH
The Galaxy Restaurant (clients only, no charge)
mfouch@mjai.com to sign up

August 15

Yellow Van Tour "DOT Audit Review Regulation Update", 9:00 a.m. to 4:00 p.m., Wilmington, OH
Holiday Inn, Roberts Center (clients only, no charge)
mfouch@mjai.com to sign up

October

Ohio Trucking Association "DOT Compliance Seminars" Tentative dates of 10-9, 10-10, 10-16 and 10-17 (fee charged by OTA)
www.ohiotruckingassn.org for more information

November

Mid-West Truckers, "DOT Compliance Seminars" Tentative dates the second and third weeks (fee charged by Mid-West Truckers)
www.mid-westtruckers.com for more information

December 5

New Entrant Seminar, "You've Got Your DOT Number, Now What?" 9:00 a.m. to 4:00 p.m.
Indianapolis, IN, Indiana Motor Carrier Enforcement Offices, Ameriplex (no charge)
mfouch@mjai.com to sign up



Reminder:

Report all claims immediately to your carrier. Late reported claims result in prolonged claims, increased settlement costs, increased insurance premiums and ultimately decreased insurability! *Report them now!*

Slow Down in Work Zones as 2007 Construction Season Kicks Off

As a special reminder, Illinois Department of Transportation will, for the second year, be enforcing Illinois' tough work zone speeding laws with photo enforcement vans that snap photos of speeding cars and trucks—we hear the first offense is \$375.

Remember to always slow down and if possible change lanes when police squad cars or other emergency vehicles with flashing lights are on the shoulder. *Safety First!*



Check Out OSHA's Website www.osha.gov

If you aren't using OSHA's website www.osha.gov, you are missing a lot of good information intended to assist employers in providing a safe and healthful workplace.

Other items of interest, particularly if you have drivers loading or unloading in hot weather, might be the *OSHA Products Available to Keep Workers Safe in Hot Weather*.

www.osha.gov

All of us at Marvin Johnson & Associates would like to take this opportunity to say Thank You to all those hard-working men and women who are professional truck drivers.

Visit our *WEBSITE*. www.mjai.com

Includes: Company Information, Personnel Biographies, Pictures, Upcoming Events, Newsletter

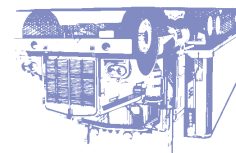
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