



THE TEN BIGGEST HUMAN RESOURCE MISTAKES EMPLOYERS MAKE

Published in "The Human Resources Magazine" in 11/08)

By Paul A. Munoz, Ph.D.

Most companies start out looking at two things; financing and product/service. As the organization begins to develop, these two pieces of the puzzle make the company successful until there are a number of employees. Business owners now have to deal with the "definite maybe", "it depends", "kinda sorta" world of human resources.

Based on experience, owners, including mortgage brokers and bankers, need to watch out for a number of classic human resource issues. So, in no particular order:

Failing to establish an effective Sexual Harassment policy – This is the fastest growing claim employees make against their employer. It is the employer's responsibility to prevent harassment; however, it is not always easy to do. Who should do the investigation? Are there witnesses? If harassment was truly present, what kind of punishment is appropriate? In addition, employers are responsible for third parties, like vendors, contractors and clients. As many of you send loan officers out to potential client residences, any harassment of your employees by clients/potential clients creates liability for you. By the same token, if your independent contractors harass clients/potential clients, the liability is yours as well. Make sure a policy is in place that includes an investigation procedure, provides for continuous training, ensures discussion during new employee orientation and make your employees responsible for prevention.

Failing to pay overtime to non-exempt employees – This topic has been covered many times and there have been major complications for the mortgage industry. In addition, a number of opinion letters have been published on this topic, increasing the level of confusion. It is, however, important to make sure you are not violating any state or federal laws. State laws vary, so check yours through the state Department of Labor. Overtime laws have changed this past year, making it easier to identify a position as exempt. It also created a very limited number of deduction options for exempt staff. Non-exempt staff are required to be paid (not comp time) for all time worked in excess of forty hours. The Fair Labor Standards Act includes a test by which employers can analyze their positions to make the exempt/non-exempt decision. A word to the wise – err on the side of overtime payment. It is safer in the long run.

Failing to complete I-9 forms for new employees. This is one of the easiest laws to comply with as the instructions are part of the actual form. Fill them out completely! Employees are provided with a list of documents they can use and employers are not

required to keep copies of the documentation used. It is simple, easy and especially with small companies, not always adhered to.

Failing to document disciplinary actions – “When in doubt, write it out”. When an employer has a performance issue with an employee, written documentation will aid in defending disciplinary and termination decisions. Notes from oral warnings and formal written warnings signed by the employee go a long way in defending decisions. Failure to do so makes the actions the employer’s word against the employee’s. How many times have Unemployment administrative judges sided with the employer when there was no documentation?

Failing to quickly discharge poor performers – This goes along with documentation. Keeping people too long hurts your business because your failure to act implies that the behavior is acceptable. It may also create a perception of favoritism as some people get fired immediately and some do not. Just don’t discharge too fast. Make sure you have given the employee ample time to change the behavior (See Documentation above).

Laying off staff without determining disparate impact – No matter how large or small, layoffs can hurt everyone. When you are deciding who will be affected, make sure you are not singling out any particular group, meaning, gender, race, heritage, etc. Last hired, first fired is not always the best way to go depending on the backgrounds of recent hires. Use documented performance (there is that word “Documentation” again!) and run your selections past legal counsel.

Failing to get a signed release from a terminating employee – Firing someone is no easy task. In our current society, protecting yourself from lawsuits is important. When an employee has been terminated, it is prudent to get a signed release. Although releases are not 100% foolproof, they go a long way in helping protect employers. Provide additional benefits in return for the release, such as additional pay or company paid COBRA coverage. NEVER use good references as an additional benefit.

If no one comes to see you, you have no problems – Many small businesses, like mortgage brokers and bankers, have hired all the people that work for them. When asked about an Open Door policy, many owners state “I hired everyone here. They know if they have a problem, they can come to me.” When asked how many people have sought them out, the response is “No one, therefore we have no problems”. Just remember, the Open Door swings both ways. It gives employees an opportunity to see the owner and it gives the owner the opportunity to go out and see the employees. Holding regular meetings, spending time “out on the floor” with the staff and ask for their feedback.

Failing to take proactive steps to keep the workforce union free – Most unions get into companies because employers are not doing the right thing. The mortgage industry has remained relatively union-free, but for how long? With the split of rival factions within the AFL-CIO, unionizing efforts are on the rise and no industry is safe. Keys to union free status? Allow employees to participate in running the business, make employees feel

they have ownership over their jobs and the outcomes they produce, train supervisors in good management skills and communicate, communicate, communicate.

Asking inappropriate questions during an interview – The use of inappropriate questions is another one of those areas where employers get themselves in trouble. The information employers seek may be fine, but it is the way employers ask it that gets management in trouble. Stay away from any question that might identify a person's race, heritage, religious background, etc. Ask all candidates about working late and on weekends, not just women of childbearing/rearing age.

Clearly, this is not an all encompassing list, but they are classic situations that get business owners into hot water.

Paul Munoz is President of the HR Group, Inc., a human resources consulting firm working with organizations to attract, retain and motivate employees as well as working with senior management to improve their use of human capital. Dr. Munoz has extensive experience in designing, developing and implementing human resource programs to increase employee motivation, skill and desire to perform at high levels. He can be reached at 516-433-6588 or pmhrman@aol.com.