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Newsletter for the Technology and Life Science Industries

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Quick Facts

Internet-related complaints accounted for 46% of all fraud complaints last year.

The percent of Internet-related fraud complaints with "wire transfer" as the payment method more than tripled from the prior year.

The major US cities with the highest rates of computer fraud were; Washington DC, Tampa and Seattle.

Source: Federal Trade Commission

Managing Employment Practices in a Challenging Economy

Contributed by Jane Hinderscheid, CPCU
RJ Ahmann Company

When people are in desperate need of a job, they are more aware of potential biases that could keep them from employment. Job bias charges for 2008 and 2009 were at record highs according to the Equal Employment Opportunity Commission (EEOC). As litigation and damage award costs continue to rise, experts predict that employment liability will only become more complex.

Job bias exposures present significant risk when interviewing candidates for a new position. Interviewers must be aware of the laws and may require special training on the hiring process to avoid ending up in a courtroom defending their hiring decision.

Consider a situation where two individuals are competing for an open position. Both are qualified in their education and experience. You have three supervisors interview the two equally-qualified job candidates to get a fair assessment. Two of the three supervisors recommend one of the individuals. Final approval of their decision is received from the division manager and the person is hired.

The company subsequently receives a lawsuit that indicates that the candidate who did not get hired believes it was because she was visibly pregnant. Your supervisors deny this allegation as having anything to do with their final decision. Their notes clearly indicate that they weighed all of the qualifications carefully. They determined that the hired candidate was a better fit for the organization based on better responses in the interview.

Later, you find that the three supervisors were at lunch quietly discussing their thoughts on who would be the better candidate to hire. One of the interviewing supervisors was overheard saying, "We just can't afford to hire someone only to have them be out on maternity leave a few months later. Even if she was a better fit, my vote is no!" In the long run, the resulting lawsuit cost them more than a short-term maternity leave would have.

To limit exposure, it is recommended that employers maintain formal procedures and regularly update documentation related to the following:

- Employee handbook
- Recruitment & hiring practices
- Disciplinary and termination practices
- Performance review requirements
- Promotion and demotion procedures
- Workplace rules and expectations
- Training and supervision of employees

A human resource strategy should include:

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- A clear understanding of employment laws
- Consistent record keeping
- All employees involved in supervisory positions should receive ongoing training to avoid questions pertaining to age, religion, race, national origin, sex or disability
- Hiring and recruitment processes that stress a “zero-tolerance” policy for discrimination and/or harassment
- Proper employee orientation, including a review of company expectations regarding unacceptable workplace behavior
- Standard disciplinary action and termination plans

Protect your company. Establish human resource policies and purchase Employment Practices Liability Insurance. For companies with employees who are working at client sites, third party employment practices insurance should also be included.

Resources for this article include: www.eeoc.gov and Zywave.

Are your fiduciary responsibilities putting your personal assets at risk?

Contributed by Lance Sunder
OakBridge Insurance Services

Did you know plan fiduciaries can be held **personally** liable for any losses resulting from breaches of their duties related to ERISA, COBRA and the Retirement Protection Act of 1994? Civil action may be brought by a participant or beneficiary for “appropriate relief.” Plan participants and their beneficiaries are not the only parties that can bring claims against fiduciaries; the ERISA enforcement agencies, the Department of Labor and Pension Benefit Guaranty Corporation are also potential claimants.

Fiduciary liability claims can include allegations of improprieties in:

- Funding or termination of plans
- Denial of or changes in benefits
- Amendments to plan documents
- Investment of plan assets
- Benefit calculations
- Selection of investment managers, mutual funds or insurance companies

Administrative errors, imprudent investment decisions, and ERISA violations are examples of what can lead to a lawsuit. For example, Trustees of an ESOP were sued by the Department of Labor and company employees. A court determined that the fiduciaries failed to conduct impartial reviews of investment options. The case settled for $1,000,000.

Fiduciary liability insurance (FLI) may be purchased on a stand-alone basis or as a shared or sub-limit to the Directors and Officers coverage. Fiduciary liability is generally very affordable and often has retention levels from $0 to $2500 depending on the number and types plans and the total assets in the plan(s).