

TRANSITION STRATEGIES, LLC

SUCCEED in ways you never thought possible

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Winter 2010

Dear Clients and Friends:

This winter marks the one year anniversary of the visible effects of the economic downturn. While we're not out of the slump yet, improvements are starting to surface. Bills are taking shape on Capitol Hill to fund programs to help the unemployed. Proposals include paid COBRA extension through June 2010, a bank reform and oversight bill, executive compensation oversight, and tax credits for small businesses. Employees will also be happy to see new protections from genetic discrimination offered by the Genetic Information Non-Discrimination Act.

Our practice is seeing more clients with new job offers, and we believe employment prospects will generally improve throughout 2010.

At Transition Strategies, we are ready to help you improve your job situation by working with you to negotiate pay and protections in your employment offers and severance agreements, and to help you try to keep your job if you are on a performance improvement plan. Individuals also turn to us for help setting up consulting and other businesses, including the development of form contracts.

Thank you for your support over the past year. Our team



looks forward to helping you succeed in 2010, too!

Sincerely,

Robin Bond, Esq.
Managing Partner

Words of Wisdom

Success is the best revenge.

Be kind. Every person you meet is fighting a hard battle.

Wise men think out their thoughts, fools proclaim them.

You may be disappointed if you fail, but you are doomed if you don't try.

Our Mission:

We are agents for executives and other professionals.

~ ~ ~
We create negotiating strategies for *your* success.
~ ~ ~

- ◆ Severance packages
- ◆ New job offers
- ◆ Employment agreements
- ◆ Any career crisis

~ ~ ~
We make deals *happen.*

COBRA Subsidies Extended

The 65% COBRA premium subsidy has been extended through March 31, 2010. Additionally, individuals who became eligible for COBRA, but not the COBRA subsidy, due to a reduction in hours on or after 9/1/08, will become eligible for the COBRA subsidy if they are involuntarily terminated between 3/2/10 – 3/31/10.

Generally, to be eligible for employer-subsidized COBRA benefits, the employee has to: (1) be involuntarily terminated on or after September 1, 2008 through March 31, 2010, (2) be eligible for COBRA continuation at time of termination, and (3) have timely elected the COBRA continuation coverage. Before this law, the maximum amount of time one could receive COBRA premium assistance was nine months. The Department of Defense Appropriations Act of 2010 extended that duration to fifteen months.

Plan administrators are required to re-notify potentially affected employees of these changes; however, if you think you qualify and haven't been notified, we encourage you to write to your company's Human Resources Department and request the information required by law. You may contact our firm for assistance in this matter.

Additional legislative changes pending related to the employer-paid COBRA Subsidy include the following: 1) extending traditional COBRA benefits for those who applied for assistance at the beginning of the recession from 18 months to 24 months, (2) increasing the subsidy from 65% of the premium to 75%, (3) providing eligibility to workers who haven't lost their jobs but have suffered a reduction in work hours, and (4) extending this benefit for terminations effective through June 30, 2010.

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GINA In Effect

The U.S Genetic Information Non-Discrimination Act (“GINA”) took effect in November 2009. The employment-related provisions of GINA prevent discrimination based on the genetic information of employees and their family members. These provisions apply to employers with 15 or more employees, and extend to job applicants as well as to employees.

The term “Genetic Information” has a three-prong definition. The term includes information such as (i) a person’s genetic tests, (ii) the genetic tests of a person’s family members, and (iii) the emergence of a disease in an individual’s family. The definition of “genetic test” is further broken down as analysis of human DNA, RNA, chromosomes, proteins that detect genotypes, mutations, or chromosomal changes. Significant confidentiality protections for this information apply.

In addition to prohibiting discrimination based on genetic information, the act also prevents employers from collecting, requesting, requiring, or purchasing the genetic information.

GINA also affects how group health plans are handled by employers. Employers are not allowed to increase group premiums or contributions based on genetic information. Employers also cannot enforce the completion of a health risk assessment that requires an individual to provide genetic information to qualify for rewards such as reduced premiums. Finally, employers cannot request genetic information in connection with an individual’s enrollment in a group health plan nor can they request a person to undergo genetic testing except in certain circumstances.

Fast Facts on the Fair Labor Standards Act

- ◆ It is a violation of the Fair Labor Standards Act to require nonexempt employees who work more than 40 hours in a workweek to take “comp time” off versus getting overtime pay. The only exception is if the employee takes the comp time in the same workweek as the extra time worked so that the total time worked in that workweek does not exceed 40 hours.
- ◆ Just because an employee is “salaried” doesn’t automatically mean he/she is exempt from overtime pay. The employee’s job duties must also satisfy the requirements for the particular exemption.
- ◆ “Inside” sales reps — those who make sales from the employer’s office or even from their own home-based office — are not automatically exempt from overtime pay.

If you or your friends have questions about whether or not you/they are being paid in accordance with the law, please contact us.

See: <http://www.youtube.com/attorneyrobinbond>

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House Passes Landmark Bank Reform Bill

In mid-December 2009, after a year of work, the U.S. House of Representatives passed a bill proposing landmark changes to the banking regulatory system — the biggest changes since the New Deal.

The legislation is primarily intended to prevent another crisis like the one that saw the 2008 collapse of Lehman Brothers, government-led mergers of Bear Stearns and Merrill Lynch, and bailouts of many financial firms. The most prominent provision requires the largest “too big to fail” banks to pay a total of \$150 billion into an emergency fund that could be tapped for failing banks. The bill also attempts to make a federal bailout for failing banks illegal.

A new Consumer Financial Protection Agency will be created to regulate loans such as credit cards and mortgages. A new oversight council will also be created to look for major problems at large firms.

The Senate compromise bill is set for a vote by late February 2010.

Tax Credits Can be Big for Small Business

The Small Business Jobs & Wages Tax Cut is designed to incentivize small businesses to invest and hire more workers — and thereby stimulate economic growth. The proposed law lists creative tax credits like the following: employers would receive a \$5,000 tax credit for every new employee they hire in 2010. They could also be reimbursed for the Social Security payroll taxes they pay on new hires or on expanded hours for existing workers. Tax breaks for expensing investments would be extended. See <http://bit.ly/bEN2N0>.

FMLA Leave Requests

Employees do not need to specifically mention the Family Medical Leave Act — they merely need to give their employer a “short and plain statement” of their need for leave, and it is the employer’s responsibility to identify if that request qualifies as job-protected FMLA leave. FMLA protection applies when the covered employee is unable to work because of his/her own or a family member’s serious health condition or when the employee gives birth or adopts a child. See <http://bit.ly/8KRDte>