

FLORIDA

BUSINESS

INSIGHT

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The Magazine of Free Enterprise & Public Policy



Civil RICO:
New Weapon
Of Choice?

**A Greener
Shade Of Brown**

Taking Advantage
Of The Year
2000 Problem

WAYNE HUIZENGA'S

Trifecta

A Publication of Associated Industries of Florida Service Corporation — The Voice Of Florida Business

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FLORIDA BUSINESS INSIGHT

The Magazine of Free Enterprise & Public Policy

September/October 1997

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ON THE COVER:

Wayne Huizenga, Florida's mega-entrepreneur, sets out to prove the critics wrong—again.

columns

COMMON SENSE 4

by jon l. shebel, publisher

COMP WISE 6

by frank white

POLITICAL PLATFORM 8

by marian johnson

THE HUMAN SIDE 19

by kathleen "kelly" bergeron

IN BOX 20

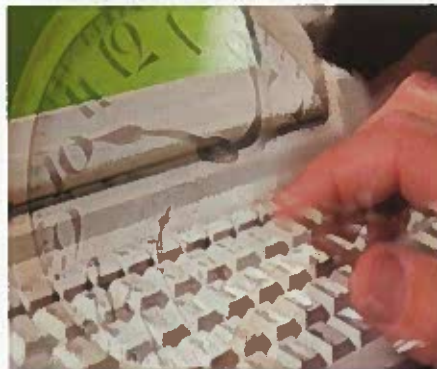
compiled by kristin foss, associate editor

PURSUIT OF HAPPINESS 46

by jacquelyn borkan, editor



page 28



page 36



page 41

features

COVER STORY

Wayne Huizenga:
Has He Got A Deal
For You!

10

by jacquelyn borkan, editor

ENVIRONMENT

A Greener Shade
Of Brown 23

by martha edenfield

LEGAL

Civil RICO: New Weapon
Of Choice? 28

by daniel popeo

HEALTHY BUSINESS

Creativity Brings Business
To Life 32

by scott west, m.d.

TECHNOLOGY

Taking Advantage
Of The Year
2000 Problem 36

by jeff minder

FEDERAL ISSUES

Rediscovering America's
Greatest Resources 41

by congressman j.c. watts jr.

The Noble Pursuit Of Profit

Who can forget (and who wants to remember) the recession of 1991 when the professionally sympathetic sobbed over the tragedy of corporate downsizing? According to what passes for conventional wisdom, companies were ruthlessly laying off employees for no other reason than to maximize profits.

Liberals love to accuse business owners and executives of “just being in it for the money.” Oddly enough, these accusations seem to strike a chord with some of those owners and executives.

I recently read a story about Yvon Chouinard, the founder and owner of Patagonia Inc., an outdoor clothing company. His company’s Fall 1991 catalog began with the self-indictment, “Everything we make pollutes.” Mr. Chouinard then promised that his company would address the “problem” by slowing, and gradually terminating, the growth of his company.

At the time, Patagonia actually had no choice but to slow its growth. Shockingly poor business management had produced years of unplanned and unregulated growth that had turned the company into an overfed behemoth. In-house product lines competed with each other and cannibalized company profits. In July of 1991, the company had to cut loose 20 percent of its work force. Unfortunately, these employees found themselves facing a tight recessionary job market made tighter by the no-growth philosophy of Ventura, Calif., home to Patagonia. One of the

leading local proponents of no growth was none other than Mr. Chouinard.

Patagonia has now revised its no-growth goal to one of slow growth. Considering the company’s recent past, this is a smart management decision, but the company cannot acknowledge it as such because the owner and his employees are self-professed haters of business. Mr. Chouinard once told a group of marketing consultants that he considers business people greaseballs.

Mr. Chouinard’s denial that he is a businessman calls to mind the alcoholic who can’t face up to his drinking problem. He is emblematic of what you might call the post-modern entrepreneur, the anti-business business person. These often well-to-do individuals seem to despise the prosperity of others and denigrate profit seeking as greed. This is foolishness.

Maximizing profits is a noble end

if only because it keeps the job engine running. And the best antipoverty program is, after all, employment.

Maximizing profits also results in better products at cheaper prices. For instance, today’s steel-belted radial lasts much longer than a tire purchased in 1930. With inflation factored in, on a cost-per-mile-driven basis, the tires on your car today actually cost less than the tires your parents or grandparents put on their cars 60 years ago.

Those of us fortunate enough to be living in America today lead longer, healthier lives and we have more leisure time and disposable income than those in the generations that preceded us. This happy situation is due in some small part to government. Most of the progress, however, flows from the innovations and risks taken by the wealthy — those who seek to maximize profits.

So let those who hate themselves for making a profit go on hating themselves — as long as they go on making profits. The rest of us will continue enjoying profit as the measure of what works best and as the means to do more. ■



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by frank white

The Fire Ants Of Workers' Comp

Those of us involved in workers' compensation sometimes feel a kinship with those hapless homeowners whose lawns are invaded by fire ants. Kill off one anthill and a few days later another sprouts up. Ignore the mound of dirt long enough and it grows into an insect condominium.

Two of the latest workers' comp battles were fought in the 1997 Legislative Session. The first involved unfunded liabilities in the Special Disability Trust Fund; the second concerned the increasing threat of insolvency among some self-insurance funds and insurance carriers. Rep. R.Z. Safley (R-Clearwater) did yeoman's work on these issues. Vigilance is needed to ensure that the solutions work, but we have every reason to believe these two emergencies are on the road to resolution.

Now, however, it's time to attack the latest workers' comp anthill. This one involves the obstacles to promises made when the Legislature enacted the 1993 reforms. At that time, some criticized the reforms for a certain

stinginess toward injured workers. Many business people, including those of us at Associated Industries of Florida (AIF), promised that once the costs of the system were under control, attention could turn to increasing benefits for those who suffer genuinely serious injuries.

Four years later, we still face obstacles to that goal. An alternate dispute resolution process was implemented in 1994 as a means to resolve issues without wasteful litigation. Nevertheless, attorney fees continue to spiral ever higher, consuming precious system dollars that could otherwise go directly to injured workers. The process has actually served as a vehicle for lawyers to pad their billable hours on claims until they finally manage to get into litigation.



The attempts to tighten the definition of what constitutes a catastrophic claim qualifying for lifetime benefits have failed miserably. The number of claims for permanent total disability have increased over the last several years. Florida now records one of the country's highest incident rates for these claims.

This is not because Florida is unsafe for workers; rather, it's because every attorney alleges that any claimant with a backache is incapable of ever holding gainful employment. To support the allegations, psychiatrists render opinions that these claimants are permanently impaired as a result of depression caused by pain. Do these psychiatrists really mean that these individuals will be permanently depressed with no hope of ever recovering psychologically or of becoming productive citizens?

Don't get me wrong. Psychological treatment must be afforded injured workers when needed. I just have a difficult time accepting the pervasiveness of *permanent* psychological impairment.

Business people are working with Rep. Safley to effect savings in the system, but not necessarily to reduce premium rates for employers. Rather the goal is to find a way to increase benefits, in terms of both amount and duration, for those workers suffering a permanent partial impairment who need a longer recovery period before returning to the work force.

It will be no easy task fending off some of the special interest groups who may not wish to see those changes made. The challenge is to convince the Legislature to make a commitment to increasing benefits to those who need them the most without enriching those who don't.

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*Pat Moran, President/CEO
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by marian johnson

The End Of The Road

In November of 1992, Florida voters inaugurated a new era in Florida politics when they approved an amendment to the state's constitution limiting legislators and Cabinet officials to eight consecutive years of service, starting with all elections held after 1992.

This means that even if every single lawmaker is reelected next year, in 2000, term limits will automatically eliminate from office 35 percent of the current Senate membership and 63 percent of the current membership of the Florida House of Representatives.

Now, let's take it a step further to the year 2002. Again, we'll assume that there are no changes in the current membership of the Legislature beyond those pushed out by term limits in the year 2000. When the Legislature convenes

in March 2003, the current Senate will automatically have lost 34 senators, or 85 percent of its membership, while 103 representatives, or 86 percent of the House membership, will change.

In 1998, Florida voters will cast their choices for governor, all six Cabinet officials, the entire House of Representatives, half of the Senate, one U.S. Senate seat, and every Florida member of the U.S. House. Many state senators and representatives are trying to decide whether running for any one of those offices will be the way to keep their political careers alive past the year 2000.

Since Cabinet races were not on the ballot in 1992, the clock started running for these offices in 1994. Thus, if all six members of the Cabinet are reelected in 1998, every single one

will be looking for a new job in 2002. That means that in 2002, there could be 143 politicians competing for a limited number of jobs.

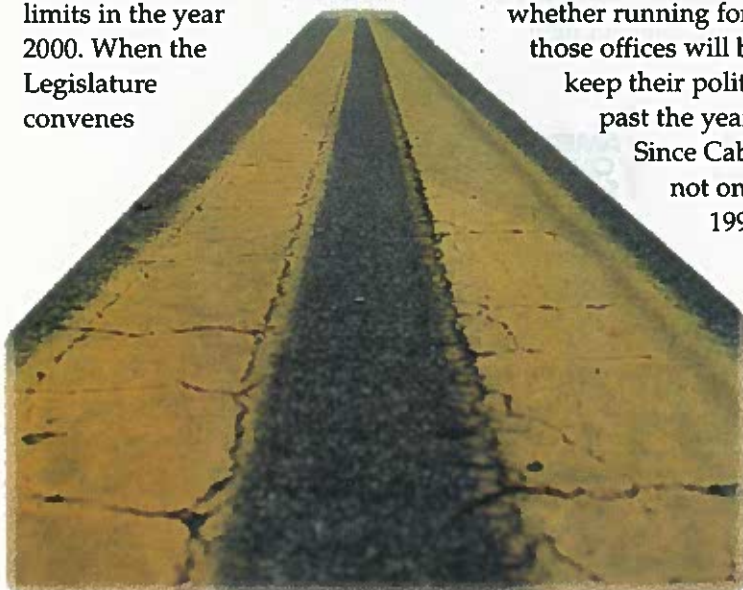
Who will do what is mostly speculation right now. So far, a few state lawmakers have announced their candidacy for statewide office and rumors surround the plans of many more.

If these legislators make a run at another office in 1998, they will have to resign from the seat they hold now. Most of them will lose their seats in 2000, anyway, because of term limits.

There are a lot of machinations going on right now as politicians who want to remain politicians start looking for a limited number of job openings. Other politicians are seeking to hold onto their positions as long as they can, hoping to thwart those who will be wandering in the political desert.

Term limits guarantee political change. Is that good? Maybe, but then again maybe not. What happens if a particular special interest group elects enough of their own to control either chamber of the Legislature? Thanks to term limits, the opportunity for an aggressive organization to plan and institute a "takeover" exists. Can you imagine having 30 Naders Raiders in the House of Representatives or three rabid environmentalists on the Cabinet?

Term limits present a challenge to Florida's business community. It's a challenge that must be answered by recruiting qualified, pro-free-enterprise people to run for office. We cannot allow *any* other special interest groups to do a better job answering this call. ■





I said "I want a new
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you sold Gary's company,"

but my Sprint rep Gina said,

"Are
you
sure?"



Gary was raving about their new phone system from Sprint. So I called my Sprint rep and said we needed one, too.

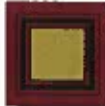
"Hold on," she said, "no one phone system is right for every business." Then she asked me a bunch of questions about my company, what we do with our lines, what we'll need in the future.

Turned out a PBX system with voice messaging made a whole lot more sense here, and now we couldn't be happier with it. That other system is perfect for Gary's company, but it wouldn't be right for ours.

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**If Wall Street were a race course,
Wayne Huizenga's horse would be the
one breaking late from the gate.**

Then, with a burst of power and speed, it would blast through the pack, and as it passed the finish line, would grab the poles and move them about a mile farther down the track.

Right now, Huizenga is running three different public companies in the Wall Street race. If the past is any guide, he's got three winners to take first, second, and third. Win, place, and show. The combination bettors call a trifecta.

Trifecta



Republic Industries is the Huizenga company garnering all of the attention. The second company, Extended Stay America, is a chain of hotels for budget-conscious travelers who need a hotel room for several weeks, and it's growing at a blistering pace. Completing the triumvirate is Florida Panthers Holdings, Inc., Huizenga's entertainment-leisure conglomerate.

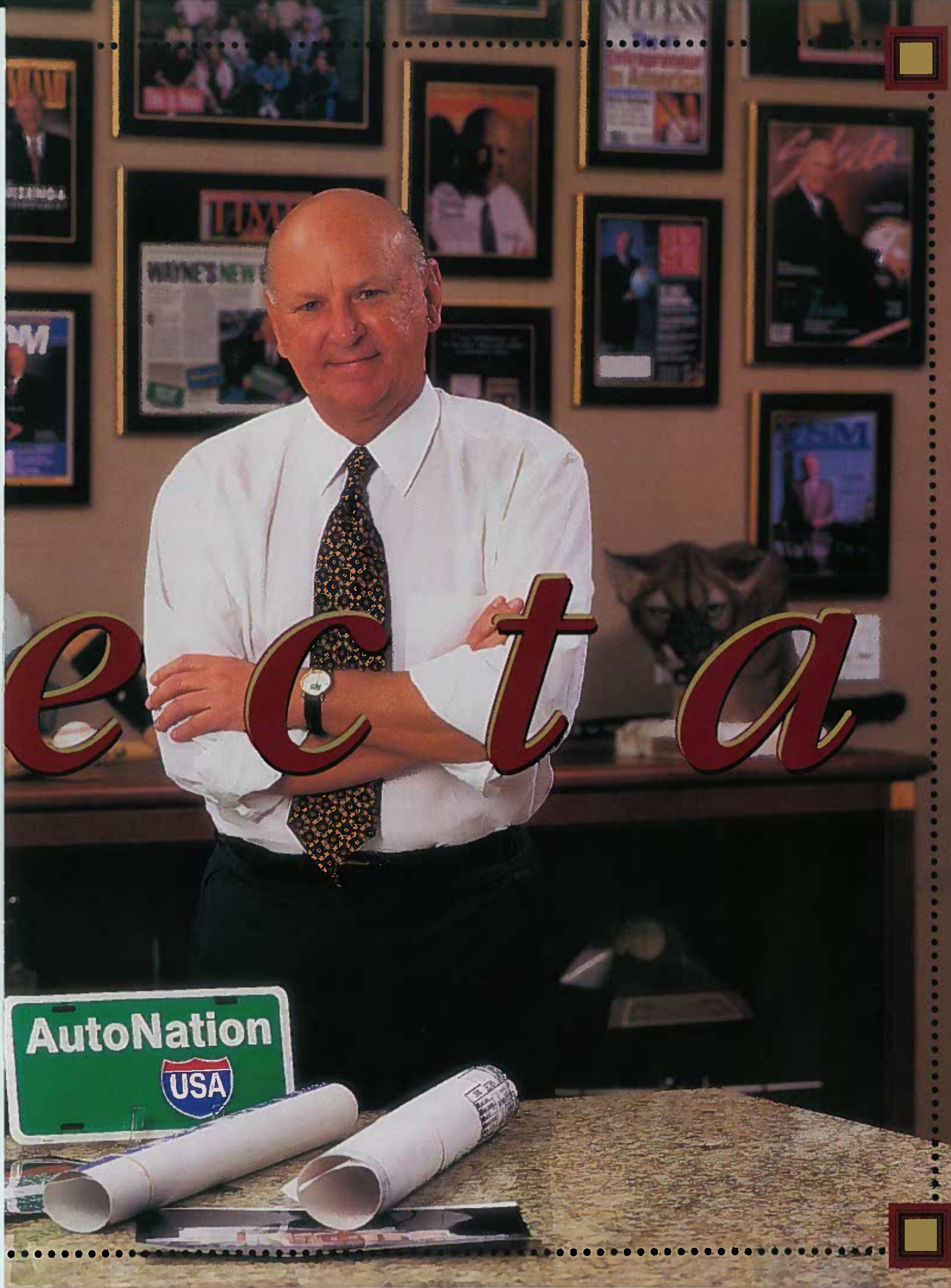
Up until the end of January of this year, the three publicly traded companies enjoyed a spell of Wall Street popularity. Then, share prices began dropping and kept dropping. Conventional wisdom — that blend of savvy, scuttlebutt, and herd instinct — seemed to shift against Huizenga.

Some were suggesting the magic was gone.

Through it all, Huizenga stays calm. After all, he's been here before.

by jacquelyn horkan, editor





AutoNation
USA



To Boldly Go

The first impression one gets upon meeting Huizenga is that he should be taller. The former garbage-man-turned-billionaire works in a large, relatively modest office, bright with sunshine. The credenza behind the desk is loaded with pictures of friends and family, including his three grandchildren. Large studio portraits of his four children adorn the wall. With a push of a button on a remote control, the office doors slide silently together.

This is where Huizenga rules his empire of waste collection companies, home security businesses, hotels, resorts, sports teams. Oh yes, and automobile showrooms.

In June of 1995, Huizenga took control of a mid-sized publicly traded waste collection company with a respectable balance sheet. He renamed the company Republic Industries and made it his vehicle for revolutionizing the auto retail business.

Toward the end of 1996, Republic began acquiring new car dealerships; by the end of January, the company was the largest dealership in the United

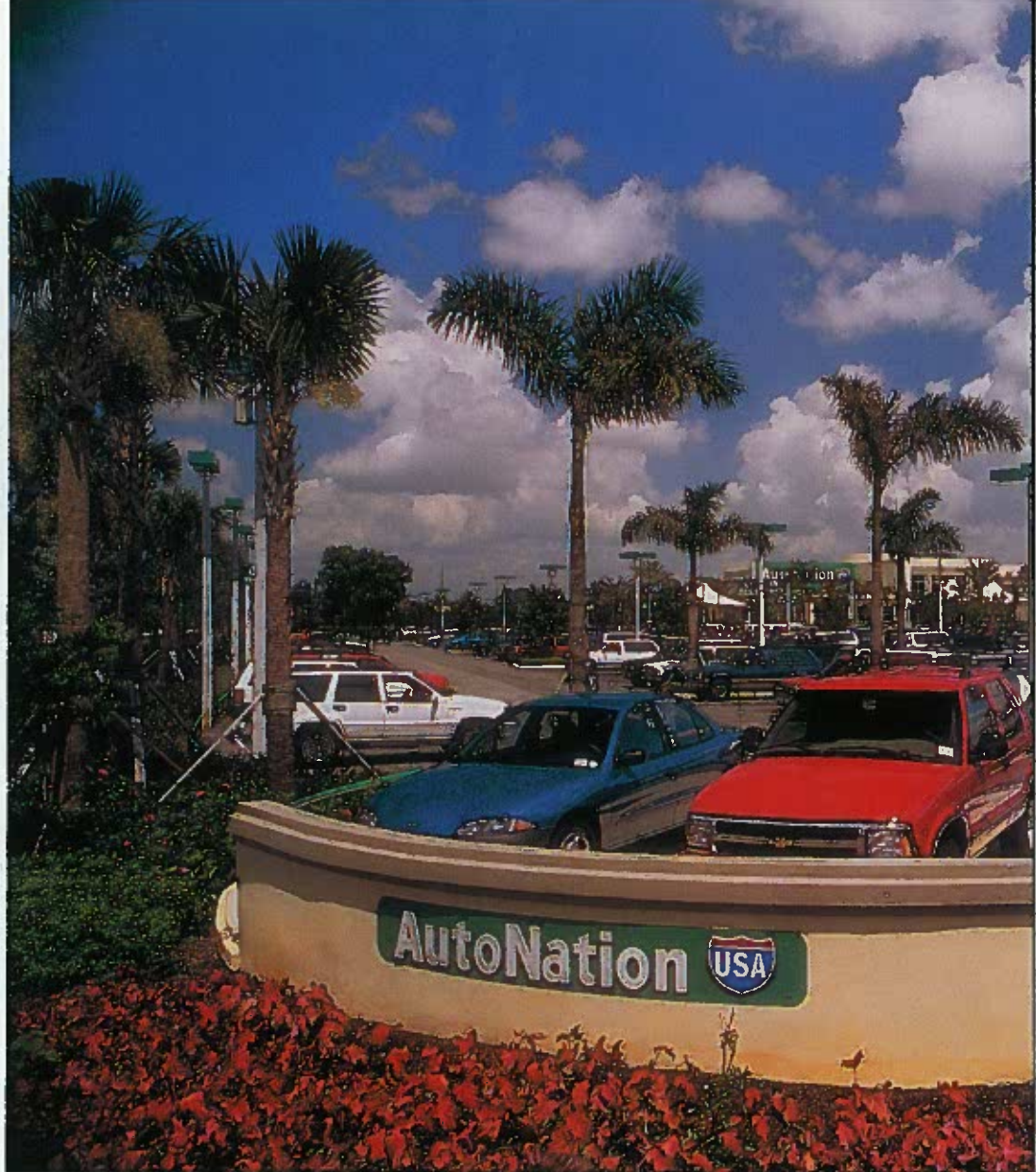
States. With the acquisition of five rental car agencies, including National Car Rental and Alamo Rent-a-Car, Republic is also the country's fourth largest rental car agency.

These acquisitions are the accessories to AutoNation, USA, the centerpiece of Huizenga's automotive revolution. AutoNation is a chain of used car megastores, each lot carrying an inventory of 1,000 automobiles. When 1996 ended, Huizenga had opened seven of the megastores. When 1997 draws to a close, that number will have leaped to 25.

Republic has also entered the high margin businesses of auto financing, insurance, service, and warranties.

Automotive retailing is a magnet for someone like Huizenga who savors the challenge of reconfiguring entire industries. It's the largest consumer retail market in the country, accounting for about 8 percent of the U.S. gross domestic product in 1995. It's a business worth about \$1 trillion a year when service, accessories, and financing are factored into the total.

It's also a market sector ripe for consolidation and re-engineering. In 1996, Americans spent \$320 billion on the purchase of new cars, and \$365 billion on used cars.



That's a \$685-billion pot of money that no one controls. Last year, the 100 largest new car dealer groups controlled fewer than 5 percent of all franchises and accounted for less than 10 percent of revenues from new car sales.

Selling cars is a tough business. On average, a dealer makes \$77 on each new car sold, while he gets \$259 in profit on the sale of a used car. But new car dealerships only account for 43 percent of all used car sales in the United States. The rest are bought at independent used car lots or through private transactions such as those that originate with a classified ad.

Those are the kinds of numbers that mean opportunity to Huizenga. "It doesn't seem right that someone buying a used car would have more confidence going to a stranger to buy a car that has no warranty, no guarantee, than they would go to a used car dealer. We set out to change that."

Rewriting The Rules

While other consumer appliances gave in long ago to mass merchandisers, automotive franchises are the lone holdout in American manu-



Automotive retailing is a magnet for someone like Huizenga who savors the challenge of reconfiguring entire industries.

facturing. That's the target of Huizenga's efforts — and other's objections.

It all comes down to brand identification. Huizenga wants to create a retail brand. Manufacturers and dealers want to maintain a wholesale brand. The manufacturers' interest in keeping consumer loyalty is obvious. Some dealers, however, worry just as much about manufacturers' loss of control.

If AutoNation creates brand identity in the business of selling used cars as well as new, smaller dealers are afraid that the megastores will dictate better terms to the manufacturers, leaving them at a competitive disadvantage. They foresee the same kind of battles that have taken place in communities across the nation when Wal-Mart muscles in on the territory of the family-owned store on Main Street. With the small dealerships playing David, this time Goliath will win.

Under economist Joseph Schumpeter's theory of creative destruction, economic growth depends on developing better products or methods of production. When that happens, economic actors either adjust or lose. According to

some automotive industry experts, the distribution and retail process accounts for between 20 and 25 percent of a vehicle's sticker price. The average price for a new car in 1996 was \$22,000. The person who figures out how to cut the cost of getting a car from the factory and into a new owner's garage starts the creative destruction process. Huizenga thinks he's that person.

Naturally, there are those who disagree.

Jitterbug

Thus far, Republic's growth has been fueled by acquisitions. Eventually, the strategy of earnings growth through acquisitions will have to come to an end. Some analysts believe that Republic won't grow operationally once it stops growing through acquisitions. Some of the more brutal critics have called Republic a chain letter, a financial jitterbug, a house of cards.

Huizenga knows he's walking a risky path. If the risk wasn't there, he wouldn't be either. But he's got a plan of where he wants to go and how he wants to get there.

Huizenga's strategy is to build a pipeline through which almost every conceivable automobile transaction

will flow. One car could represent up to four transactions for Republic. For example, a new car is leased from one of the dealerships. When it comes off lease, it is sent to AutoNation where it is leased again as a used car. When that lease is up the car is sold.

The car could potentially be sold one more time at ValuStop, Republic's used car lot for those vehicles with a lot of miles and years on them. A small percentage of new cars coming off lease will also make a stop at Alamo before they are sent to AutoNation.

In addition to the strategy of recurring revenues, Huizenga plans to cut costs at the dealerships through economies of scale. If he owns 15 franchises in one area, where once there were 15 accounting offices and 15 license and tag departments, there will now be one. They can offer cheaper financing to customers, passing along some of the savings and keeping some for themselves. Because Republic is cash-rich and enjoys a cheaper cost of money, it can pay off the dealer floor plans and save on interest. Finally, Republic will buy advertising in bulk, saving the dealerships 40 to 45 percent on placement fees.

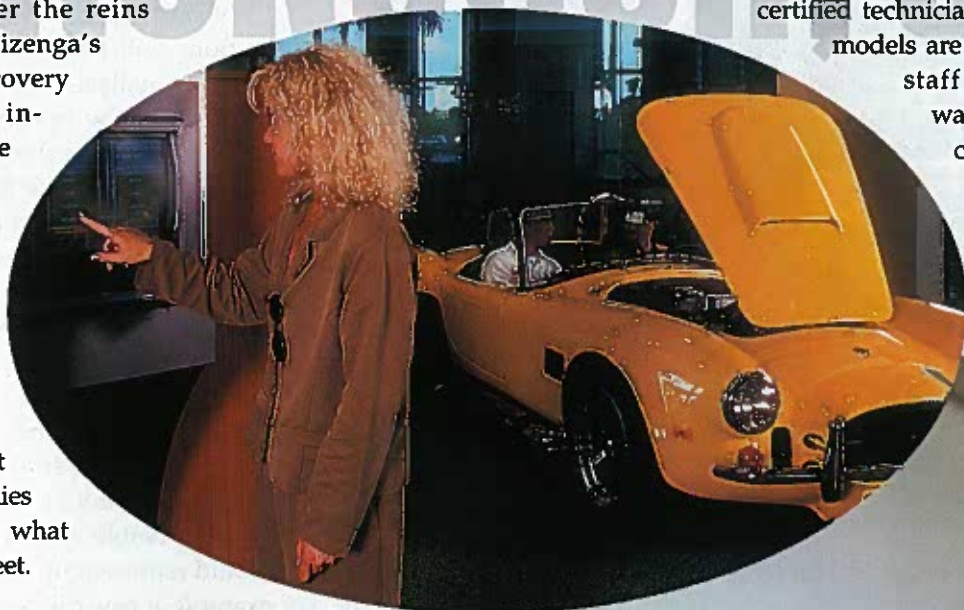
Even if the strategy is sound, there are those who are now questioning Huizenga's entire career. In mid-July, the *Wall Street Journal* asked the question, "Is Wayne Huizenga losing his touch?" The venerable *Journal* answered yes.

The evidence cited was the sliding share prices for Republic, Extended Stay, and Panthers Holdings. All have been on a downward trend since the beginning of the year. Republic reached \$44 5/8, then dropped to \$24 5/8 by the end of July. Extended Stay's October high of \$23 nosedived to \$16 1/8 in July. Panthers Holdings took a similar trip, from \$32 to \$21 7/16.

If that wasn't bad enough, the *Journal* also blamed Huizenga for recent drops in the stock of Viacom and Waste Management, and for the bankruptcy of Discovery Zone. The new game of casting stones at Huizenga thus reached an all-time low. After all, Huizenga sold Blockbuster to Viacom three years ago. He retired from Waste Management 13 years ago. Both experienced success and setbacks after the reins dropped from Huizenga's hands. As for Discovery Zone, Huizenga invested in it, but he didn't manage it.

Wall Street prognostication is a team sport anyone can play. But what the noisy say today is soon forgotten.

What you see at Huizenga's companies speaks louder than what you hear on the Street.



drive them away once the paperwork is finalized. These customers have just completed a sales process designed for their comfort.

Banks of touch-screen computers stand ready to help customers select a vehicle. You can search for a particular year, make, and model. Or you might request reports on every minivan on the lot within a particular price range. A salesman is standing by with a golf cart to whisk you away to take a look at the cars on your list.

There is a supervised playroom to entertain children while their parents are shopping. Financing and insurance can be finalized on-site, minus the intimidating and irritating practices sometimes encountered on other lots.

There is an accessory store on-site if you want to spruce up the new family sedan with sporty hubcaps or a top-notch CD player.

Attached to each AutoNation is a service center open seven days a week and staffed by ASE-certified technicians. All makes and models are welcome, and the staff will honor any warranty. The service center waiting room is equipped with phones, fax machines, and computer connec-

Cleanliness And Godliness

On Sample Road in north Broward County sits the first AutoNation opened by Republic Industries. In a large, bright showroom, sparks of light bounce off the lustrous bodies of the cars. A hot pink pickup is parked to one side vying for attention with a gleaming yellow roadster. These are used cars?

"At a new car dealership, they're trying to sell you a new car," says Lynne Fernandez, an AutoNation spokeswoman. "We're trying to sell you something you don't even know exists."

That something is the no-haggle, one-price purchase of a used car backed by a seven-day, full-refund policy and a 99-day bumper-to-bumper warranty. AutoNation can make that kind of guarantee because each car is subjected to a 165-point inspection of every component of performance, safety, and appearance.

At mid-afternoon on one rainy Monday, there are five cars sitting at the portico waiting for their new owners to



tions with modems in case a customer wants to take care of business while waiting for his car.

"If you're trying to change the image of the used car lot, you have to be different," says Huizenga. "Cleanliness and godliness, that's what we're pitching."

That's the Huizenga method: figure out what the consumer wants that he's not getting, then set out to fulfill those wants bigger, better, and faster than anyone else. He's doing it with AutoNation and with Extended Stay, another new venture.

Staying With The Cookie-Cutter

George Johnson and Wayne Huizenga met in 1976 when Huizenga's Waste Management bought Johnson's South Carolina trash-hauling business. The two continued their partnership with Blockbuster where Johnson was the company's largest franchisee and then president of its consumer products group.

Now, they are teaming up again with Extended Stay America, Inc. Johnson is running this show with Huizenga adding his prestige to attract investors.

Extended Stay is Johnson's response to a growing demand for long-term hotel accommodations at a reasonable price for business travelers. According to some industry experts, demand in this niche exceeds supply by a ratio of 10 to 1.

Johnson says he is following the Blockbuster formula for the hotel chain. "Find a business with high margins, take

a cookie-cutter approach, and capture the market."

The company opened its first facility in August 1995 in Spartanburg, S.C. By the end of July 1997, Extended Stay had 120 properties in operation. It's the nation's fastest growing provider of economy stay lodging with three different brands offering weekly rates ranging from a low of \$169 to a high of \$400.

A room at an Extended Stay hotel features a full kitchenette, phone service with voice-mail, computer and modem hook-ups, weekly housekeeping, and twice weekly towel service. The chain maintains its low prices by cutting out the frills that a cost-conscious traveler does not need, such as restaurants, room service, and lounges.

According to Johnson, the average occupancy rate for the hotels is 78 percent; the break-even point is 27 percent. With average guest stays of three to five weeks, at a 120-room facility, the hotel only has to attract about 1,400 customers in a year.

The chain has yet to invest heavily in advertising. Instead, it is relying on word-of-mouth and the recommendations of satisfied customers to fill its hotel rooms. In fact, according to Johnson, 27 percent of Extended Stay's guests check in after they see the rates on the sign outside of the hotel.

Industry analysts say the chain must have 300 hotels to achieve critical mass. Johnson says they will reach that objective by the end of 1998, two years ahead of schedule.

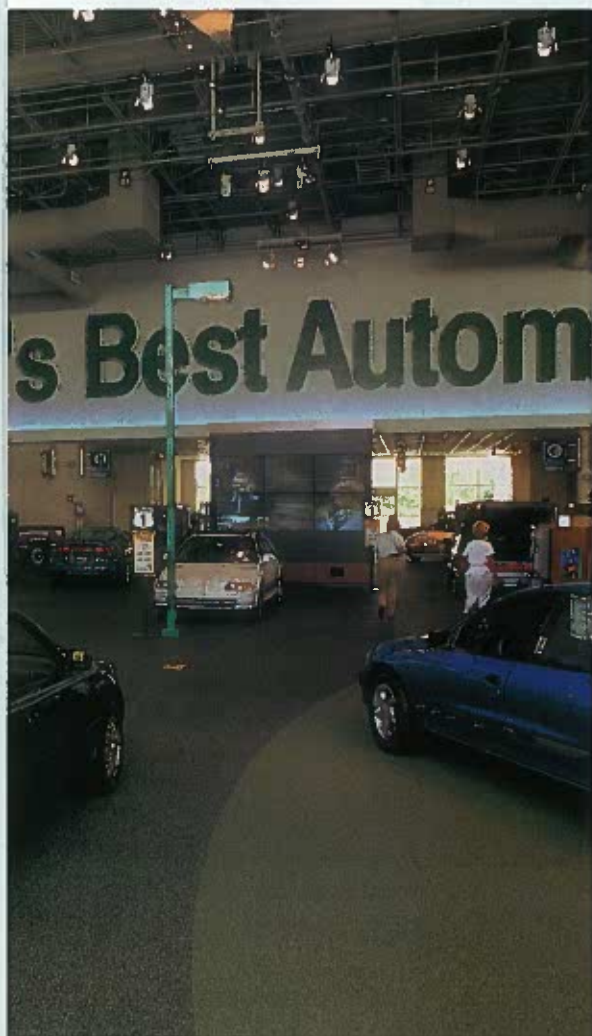
Unlike most hotel chains, Extended Stay owns all of its properties; none are franchised. That means that by the end of 1998, the company will own more hotel rooms than any other chain in the United States.

To manage such rapid growth, Johnson has adopted another line from the Blockbuster creed. He has divided the nation into zones. Each zone office is staffed with real estate experts and construction engineers.

"The key advantage we have is capital and organization," says Johnson. "If you look at each zone as a separate company, it becomes easier to manage our growth. And capital is what has kept other people from doing what we're doing."

What Johnson is doing is surprising others in the lodging industry.

According to Huizenga, "A lot of people said these guys are going to fall on their face because nobody's ever opened that many hotels in one year. Well, you can't say it can't be done because George is doing it."



That's the Huizenga method: figure out what the consumer wants that he's not getting, then set out to fulfill those wants bigger, better, and faster than anyone else.

Extended Stay is Johnson's response to a growing demand for long-term hotel accommodations at reasonable rates for business travelers.



Hat Trick

Of Huizenga's three sports teams, the Florida Panthers have come the closest to winning him a national championship. The hockey team played its first game on Oct. 4, 1993, then went to the Stanley Cup finals three seasons later. Victories on the ice aside, the team has been a loser at the bank.

Blame for the financial failure can be set squarely on the team's home field disadvantage. The Panthers were the second tenant at the Miami Arena. As the first tenant, the NBA's Miami Heat got first dibs on revenues from sales of suites and advertising.

That will all change in October of 1998 when the Panthers move into their new home in Sunrise, just west of Ft. Lauderdale. The arena will be owned by Broward County, but the Panthers' sister company will manage the property.

"Once we get the new arena up," says Huizenga, "then there's light at the end of the tunnel."

That light is shining on the opportunity to make money, not just from retail and concession stands, but from the more lucrative sale of private clubs and suites, and from the booking of other events.

In November of 1996, the team went public as Florida Panthers Holdings, Inc., raising \$67.3 million in the initial public offering. Since that time, the company has evolved into an eclectic collection of entertainment and leisure properties.

Richard Evans, president and CEO of Panthers Holdings, brings to the mix a wealth of experience gained at Radio City Music Hall, Madison Square Gardens, the Grand Ole Opry, and Disney World.

Evans and Huizenga met while the latter was working on plans for Blockbuster Park. Huizenga wanted to tour a San Antonio, Texas, amusement park Evans was developing.

The two crossed paths again when Evans was working with Nashville officials to lure a hockey franchise to their city.

"I was trying to get the Panthers to move to Nashville," says Evans. "Instead, he got me to move to Ft. Lauderdale."

Panthers Holdings is not following the standard Huizenga blueprint of creating a brand.

Instead it is slowly cobbling together a group of hotels and resorts, including some of Florida's premier properties.

The hotel acquisitions began in December with the purchase of the Pier 66 Resort and the Bahia Mar Beach Resort and Yachting Center. Nestled within close proximity to each other, the two combined represent the largest marina on the east coast of the United States, with 70 percent of the commercial marina space in Broward County.

The real coup came in March when Panthers Holdings announced plans to acquire the Boca Raton Resort and Club, the grande dame of Florida resorts. The original building was constructed in 1926, designed by the legendary architect Addison Mizner to resemble a Spanish castle.

The deal on the Boca Raton resort closed in June and shortly thereafter Panthers Holdings announced its plans to acquire a controlling interest in The Registry Resort in Naples.

According to Evans, the acquisition of higher-end resort properties will continue in South Florida, and eventually will expand elsewhere in the country.

He is concentrating on elite properties that cater to prestigious business groups, many of which meet in a different location every year. Evans hopes to create a niche for Panthers Holdings to serve those customers.

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Initially, the company would create a group of premium properties through acquisitions. Perhaps in the future, it would begin developing new properties.

"We could provide those same services in different geographic areas across country," Evans explains, "and provide the level of service the group likes."

Place Your Bets

Amid all the controversy and second-guessing that's sprung up around Huizenga's three companies, there's one fact that often gets overlooked: none are mature yet.

Republic's waste collection and home security divisions are both profitable. So are the dealerships and the rental car agencies. The company is expected to reach \$10 billion in revenues this year, a 400-percent increase over 1996 sales.

During the first six months of 1997, profits were \$102.3 million on \$4.15 billion in sales, representing increases of 115 percent and 50 percent, respectively, for the same period in 1996. The used car megastores have yet to begin contributing to profits, however, since the first AutoNation

won't celebrate its first birthday until October.

"We're expecting each one of our used car lots to do about \$100 million a year in business," Huizenga says, "but it's going to take 15 to 18 months for each store to ramp up to where we finally reach that number."

Extended Stay's plans to become the brand name in its field are well under way, but the company is still under construction. The company's net loss of \$9.1 million for the second quarter was due to \$19.9 million in one-time pre-tax charges related to the purchase of the Studio Plus chain, the negotiation of a \$500 million credit facility, and charges for moving its listing to the New York Stock Exchange. Second quarter sales hit \$29 million, an increase of more than 360 percent from the same period a year ago. Extended Stay ended June with \$175 million in cash, \$822 million in equity, no debt, and \$800 million in available credit.

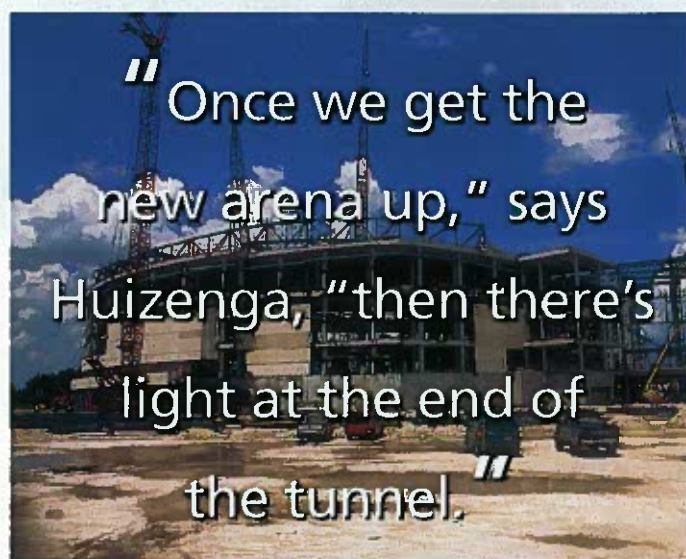
As far as Panthers Holdings is concerned, the new hotel properties are profitable, but the hockey team will keep losing at least \$20 million a year until it moves into the new arena.

As the saying goes, the proof of the pudding is in the eating, and Huizenga's pudding won't be done cooking until the end of 1998. That's when the Panthers move into their new home, Extended Stay reaches critical mass with 300 properties, and enough AutoNation megastores have been in operation long enough to settle all the questions about their potential.

So, to paraphrase another overused expression, the reports of Huizenga's imminent collapse are greatly exaggerated.

Criticizing someone else is always easier than taking risks and producing results. Huizenga is accustomed to taking risks, producing results, and listening to criticism along the way.

But, as he says of AutoNation, "if we didn't have confidence, we wouldn't be building them at the rate we're building them." ■



by kelly bergeron

The Right Way To Hire The Right People

In today's workplace, the areas that consistently generate the most employee lawsuits are hiring and firing practices. These lawsuits cost companies millions of dollars each year. But statistics show that a front-end investment in hiring the right people the right way will guarantee a reduction in the number of employees you have to terminate, thereby reducing the overall number of potential lawsuits. And that will save you money.

The first step to keeping yourself out of trouble is to review your company's application form. It should contain a standard statement affirming the company's commitment to equal opportunity: "(Company) does not discriminate in hiring on the basis of race, color, religion, sex, national origin, age, disability, veteran status, or status in any other group protected by federal, state, or local law."

Employers that want to preserve their right to fire "at will" should include the following disclaimer on the application form: "In consideration of my employment, I agree to comply with the policies, rules, regulations, and procedures of (Company), and I understand that I do not have a Contract of Employment with (Company); that my employment will be at will and is not for a definite duration; and that my employment can be terminated with or without cause or notice, at any time, at the option of either (Company) or myself."

Train your managers and supervisors to conduct legal interviews. The same questions should be asked of each applicant to

ensure consistency and fairness. Interviews should focus on the individual's skills and qualifications, and not his personality.

There are three types of questions that should be used by the interviewer. Open-ended questions are designed to get the applicant talking about a particular area. For example, "Tell me about your accomplishments in your last job." Closed-ended questions are designed to get specific facts, sometimes requiring only a yes or no answer. For example, "In your last job, did you also handle the attendance records?" Probing questions are designed to cross-check or supplement existing information. For example, "You mentioned you left that job because you did not get a promotion. Would you please tell me more about that?"

According to survey results reprinted in the March 23, 1997, issue of the newsletter, *yourbusiness*, the following are the 10 illegal questions most commonly asked

during an interview. They have nothing to do with the applicant's qualifications, but employers continue to ask them.

1. How many children do you have?
2. How did you get that name?
3. How old are you?
4. Where (or what country) do you come from?
5. As a woman, how well do you work with men?
6. How good is your health?
7. Are you married or single?
8. Do you own or rent your home?
9. Are you a minority?
10. What are your religious holidays?

Memorize these questions and then remember *not* to ask them.



No matter what your business, the people you employ make the difference between success and failure. They do the work, make the decisions, and represent the company. Technological sophistication, whether in machinery or computers, has yet to provide a substitute for talented, loyal, hard-working employees.

Therefore, the first step in any successful business is hiring and retaining the right people, the right way. ■



compiled by kristin foss, associate editor

Constitution Revision Commission

The Constitution Revision Commission is getting down to business as 37 commissioners from all walks of life come together to recommend changes to Florida's constitution. Public hearings will also be held throughout the year to give members of the general public an opportunity to speak.

Any changes recommended by the commission will go directly to the voters for ratification at the general election in 1998, without review by the Legislature, the governor, or anyone else. Various committees have been formed to look at issues ranging from education to the citizen initiative process.

More information is available through the commission's web site located at www.law.fsu.edu/crc. The site provides a variety of information including upcoming meetings, a list of commission members, proceedings, commission committees, news articles, as well as procedures for submitting suggestions to the commission for review. Associated Industries of Florida (AIF) also will provide updates on the commission's activities through Florida Business Network, AIF's on-line governmental information system. ■



Chase Stays On As Lobbyist for AIF

Jodi L. Chase, executive vice president & general counsel of Associated Industries of Florida (AIF) for the past seven years, left AIF recently to join the law firm of Broad & Cassel. "It's personal growth," says Chase. "I have to go out there and try on my own, and see what I can do."

Chase will continue to lobby for AIF as an attorney with the law firm, and will continue to provide her outstanding representation of the business community before the Florida Legislature.



"AIF is the best association in the country," she states. "I'll always be a loyal ally to AIF." ■

CALLING ALL EMPLOYERS

As a result of new federal legislation, Florida will require all employers in the state to report new hires, effective Oct. 1, 1998. This marks a change from current Florida law, which had only required reporting of new hires by employers with 250 or more employees. The New Hire Reporting Program helps the state to locate non-custodial parents delinquent in their child support payments and to collect court-ordered payments through wage withholding. The information also is used to detect abuses of the unemployment compensation program.

When the program goes into full effect next year, all employers will be required to provide the following information on new hires: 1) employee name, address and Social Security Number (DOB optional); 2) employer name, address, and Federal Employer ID number; 3) date of hire (same as first day of work under current system).

Employers may report the information by mail, telephone or fax. Copies of W-4 forms are accepted along with the State UI Account number (the number from the UCT-6W report) and the first day of work. Employers who currently report new hires and want to report the information on diskette or magnetic tape should contact the Department of Labor and Employment Security at (850) 921-3540 for record layout requirements.

The Florida Department of Revenue (DOR) is working to educate employers about the new reporting requirements, as well as to identify employers' needs and expectations for making the program successful. Employers with questions should call DOR Child Support Enforcement at (850) 922-9590. ■



Don't Look Now

Maybe now that the state of Florida has settled its lawsuit against the tobacco companies, efforts to repeal the abominably unjust Medicaid Third-Party Liability Act will succeed. Even if they do, the strategy unveiled in the tobacco wars will survive to threaten every manufacturer, distributor, retailer, and citizen in the nation.

There's nothing new about plaintiffs' attorneys soaking entire industries. What makes the tobacco litigation so ominous is that it unveiled a highly sophisticated formula for plaintiffs' lawyers to use in their quest for money.

The lawsuits against tobacco companies were born when a few plaintiffs' lawyers hopped onto their private planes and made the rounds of state capitals, recruiting politicians to file lawsuits against cigarette manufacturers on behalf of taxpayers. Eventually, about 40 states jumped on the litigation train.

In the end, passage of the Florida law was really little more than a symbolic victory. Facing war on so many fronts, the

tobacco industry had little choice but to capitulate. Politicians and plaintiffs' lawyers alike have maintained the fiction that this exercise was undertaken in the interests of the people. So what did they do for us?

First of all, we will enjoy an expansion of government power through tobacco-subsidized health programs. Some may believe that is a fine thing, but just wait until the plaintiffs' lawyers come back to the

politicians with another plan to raise state revenues without raising state taxes. And come back they will.

Mass torts, such as the tobacco lawsuits, are more than methods to pad plaintiffs' lawyers' bank accounts. They also represent a sort of litigation research and development effort, testing techniques and establishing precedents to use in the next round of lawsuits.

In the Florida case, trial lawyers established some eerie precedents that won't go away with the settlement (see page 28, *Civil RICO: New Weapon of Choice?*).

The model of threatening industries with the cudgel of state lawsuits will undergo further refinement. After all, how can plaintiffs' lawyers resist hefty legal fees? Or politicians headlines? What activist will say no to money to implement a favorite program without having to raise taxes?

As for the rest of us, the prospects are a little bleak. We'll pay higher prices for legal products while we give up just a little more freedom. ■

Clean Air At What Cost?

A proposal by the U.S. Environmental Protection Agency (EPA) to tighten national air quality standards for ozone and fine particles (particulate matter) is full of hot air say many Florida business owners. Critics believe that the estimated \$150 billion a year it will cost to comply with the new EPA standards will far outweigh the promised benefits of protecting public health. Opponents of the proposal, such as the Florida Coalition for Clean Air, say that if the standards are implemented, the biggest losers will be the American people.

"Businesses of all sizes will pay for the new air pollution/controls up front, but the high costs will be passed on. Workers will lose jobs, families will pay more for transportation, gasoline, electricity, and most other goods and services," claim members of the coalition. "As a result, they will have less to spend on education, retirement, and their own health care."

State analysts predict Florida's business community will not be hit as hard by the new requirements because pollution in Florida is less severe thanks to persistent sea breezes over the peninsula. However, state environmentalists warn that certain breezes can blow regions of South Florida right out of compliance with EPA particulate matter standards. Every year during June and July, summer trade winds blow dust from Africa 3,500 miles across the Atlantic to Florida—blanketing most of Dade and Broward counties. That was enough in 1993 to triple the air pollution level in South Florida.

Serious public demand is being made for EPA to reconsider its proposal and make much-needed changes. Seventeen of the state's 23 U.S. House members and Republican Sen. Connie Mack have written the White House expressing opposition to the rules. ■



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A Greener

What happens when the economic and social decay of inner cities runs up against Mother Nature? In the past, the needs of people and communities disappeared under a deluge of draconian environmental standards.



Shade Of

BROWN

THE NEW BROWNFIELDS LAW creates economic opportunities in areas that are currently idle or underutilized.

That time has passed with the enactment of the Brownfields Redevelopment Act of 1997. Sponsored by Sens. Jack Latvala (R-Palm Harbor) and Jim Hargrett (D-Tampa), the law strikes a delicate balance between maintaining strong environmental protection while encouraging development of brownfield sites through incentives.

Brownfields are clusters of abandoned, vacant, or underutilized sites contaminated by hazardous materials, often released decades ago. Commonly located in older, poorer parts of cities, brownfields are often viable sites for redevelopment or reuse.

The existence of brownfields often contributes to overall community decline, including issues of human disease and illness, crime, a lack of education and employment opportunities, and infrastructure decay. Brownfields redevelopment, properly done, can be a significant element in community revitalization.

Unfortunately, stringent environmental regulations, development requirements, and impact fees have had the unintended and unforeseen consequence of creating disincentives for private cleanups and investments in these brownfield areas. The regulatory regime actually made it easier and more desirable to develop virgin parcels on the outskirts of town than to redevelop old abandoned sites in the inner city.

The new brownfields law makes redevelopment of the sites a true partnership opportunity for state and local government regulators to work with businesses and citizens to create economic opportunities in areas that



are currently idle or underutilized.

In one Florida city, local leaders are already putting the concept to the test.

CREATING A BROWNFIELD AREA

The City of Clearwater brownfields redevelopment work plan is expected to become a blueprint for brownfields redevelopment on a statewide and national basis. It is providing an economic model of how environmental issues, such as water quality, can be addressed as mutually inclusive cornerstones in resolving environmental, economic, and social problems.

Clearwater, with a population of 100,265, is located in Pinellas County and historically was a center for canning, packing, and shipping citrus fruits grown in the region. Today, Clearwater's primary industry is tourism. In the past, Clearwater had a more balanced economy. The downtown area — once populated by printing operations, electronics manufac-

turers, fish canneries, and other industries — is now a landscape of brownfields. The abandoned properties are located on the site of a large lake that was filled in and developed about four decades ago.

Over the past 25 years, the city has experienced private disinvestment and a significant loss of jobs. Today, vacant and derelict buildings and lots, a few transmission shops and print facilities, and a six-acre junkyard are what remain.

The collapse was primarily caused by an environmental regime that created disincentives to redevelopment of a potentially contaminated site. Redevelopment was also hampered by regulations imposed by the Southwest Florida Water Management District mandating a 10 to 15 percent property set-aside for stormwater attenuation and treatment. The set-aside made business expansion unfeasible and actually provided incentives for relocation of businesses.

Thus, many businesses left the area. As a result, the city's tax base was substantially reduced and the threat of liability for environmental contamination halted private investment in the area. Property values declined for more than 150 sites within a half-mile radius of the brownfield area.

PROFILE OF A BROWNFIELD AREA

An examination of the Clearwater brownfields reveals a zone of spiraling decline in need of government and private intervention. Thirty percent of the city's residents live in the area. Of those residents, 54 percent are low-income families, while 20 percent are below the poverty level. There is a 10-percent unemployment rate and 75 percent of the city's reported crimes occur there.

Property owners have seen their property values decline by 5.4 percent since 1988. There is a 32-percent vacancy rate. The area includes 100 contaminated sites and a number of functionally obsolete properties.

City officials and local community groups are banding together to economically revive and environmentally restore the area. The objectives include stimulating physical redevelopment, reopening the investment climate, improving environmental conditions, and creating new jobs and environmental justice.

The centerpiece of the economic development and environmental justice framework is the recapture and revitalization of the lake. Designed as a stormwater basin management system, the lake would allow for an improvement in water quality and would accommodate stormwater attenuation and water quality treatment requirements. Restoration of the lake, therefore, will negate the need for property set-asides. Developers will have access to off-site stormwater retention, thereby reducing up-front costs, as well as construction and main-

tenance costs. This is a crucial development and investment incentive.

The city is receiving federal grants and state funding that are necessary to implement the effort. The brownfields pilot project consists of five major objectives, including environmental site assessment, job placement activities, establishing a brownfields environmental assessment and clean-up fund, and developing a form of ownership plan to manage and limit investor liability. Overall, the city is moving to streamline the permitting process to provide investors and developers with clarity, certainty, and flexibility.

With the passage of the 1997 Brownfields Act, Clearwater has already seen an immediate increase in economic activity in its brownfield area.

The liability protection in the legislation provides incentives for lenders, investors, businesses, and developers

to participate in the revitalization of the area.

Robert Keller, Clearwater's assistant city manager, predicts that citizens of Florida will look back in one year and say that this legislation made a difference. "If it hadn't been for brownfields legislation, the city would now be stopped in its tracks on the brownfields redevelopment issue. The legislation gives us the flexibility to implement what will work best for our community."

Keller believes that with more successful brownfields initiatives, more local governments will change their attitudes. Often the local governments and regulators are the obstacles to new and innovative ideas. The brownfields legislation will accomplish no good unless it is implemented. Unless citizens get involved in convincing the local governments

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to act, the potential embodied in this new law will go unrealized.

Will the brownfields law work to stimulate environmental clean-up and economic recovery in idle, abandoned, and underutilized sites? As with any innovative solution to a complex and controversial problem, the question will not be answered immediately. After all, these areas were created over years and years, and won't be revitalized overnight.

Business developers and activists in poverty-ridden urban areas are natural partners when it comes to pushing politicians and bureaucrats toward implementation of the brownfields act. The social and economic benefits for the community and for individual entrepreneurs are merely waiting for action.

One thing is certain. It is in no one's best interest to let the Brownfields Re-development Act of 1997 languish. ■

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So if you're wondering who won the Florida Lottery this week, the answer is simple: Every single resident of the State of Florida.



by daniel popeo

CIVIL RICO

New Weapon Of Choice?

Florida's Medicaid reimbursement lawsuit against tobacco companies was born in an unsavory sneak attack during the 1994 Legislative Session. Now, in the courtroom, it is producing legal rulings that resonate far beyond the immediate damage they are causing to the defendants' case. One ruling in late 1996 by Circuit Court Judge Harold J. Cohen allowed four highly inventive but dubious claims, grounded in the Florida Racketeer Influenced and Corrupt Organizations (RICO) Act, to proceed to trial.

Editor's Note: This article is excerpted with permission from a Working Paper published by the Washington Legal Foundation.





The state's RICO statute is based on the federal law. Although Congress intended RICO as a weapon against the influence of organized crime, since the law's passage, it has been used against the legitimate businesses it was meant to benefit. The prospect of treble damages and the negative public stigma of being labeled a "racketeer" made the law an attractive tool in civil litigation. With the growth of anti-business RICO actions in the '80s, efforts were made in Congress and the federal judiciary to stop the law's expansion. Now, however, its successful use in tobacco litigation threatens to revitalize RICO as a viable and popular plaintiffs' lawyers' legal weapon.

There are a number of troubling aspects to the RICO claims in the tobacco case. They were a late addition to the plaintiffs' complaint, and the defendants were offered little opportunity to effectively respond. In addition, Judge Cohen allowed these claims to proceed in an action that is, in essence, a personal injury suit, even though RICO is meant to redress only business or property injury.

The court permitted RICO actions to proceed on claims of deceptive advertising and let other claims against business associations go forward. These rulings, because they allow racketeering charges to be brought against those exercising their First Amendment rights to speak, represent, and advertise for legal businesses, provide perhaps the most significant threat to the entire free enterprise system.

This ruling, and any precedents following it, could embolden plaintiffs' lawyers and states to include RICO claims in any personal injury or reimbursement action against producers, representatives, and advertisers of any product that risks injuring private litigants or a state's Medicaid recipients.

The broader ramifications of these rulings for all business defendants have been mostly ignored. A careful analysis of these rulings reveals that the victory for the plaintiffs' lawyers poses a threat, not only to those who are regularly subjected to their aggressive litigation tactics, but also to businesses that are not normally targets.

FIRST AMENDMENT CONCERNS

A highly unusual aspect of the RICO claims in this case must trouble any corporate officer engaged in proactive interaction of any kind within the political system, or whose business activities have, or might, become the subject of political debate or media scrutiny (e.g., oil spills, allegations of discrimination or harassment, or price-fixing charges).

The reason? If the state's complaint sets a standard that is followed in other states or in lawsuits involving other industries, then actions taken by public relations and public affairs specialists may serve as the basis for RICO charges that are filed many years in the future. For example, the complaint ensnares the Tobacco Institute, an industry trade group, by virtue of its having engaged in "research, litigation support, and lobbying in concert with the tobacco companies on behalf of the Racketeering Enterprise."

Thus, the state alleges that appearances by a Tobacco Institute vice president to discuss "the false controversy of smoking and disease," on several highly regarded television programs, constituted use of

wire communications in interstate commerce in furtherance of a scheme to defraud.

The First Amendment implications of bringing civil RICO actions against protest organizations have not gone unnoticed. When Congress first debated RICO legislation, the American Civil Liberties Union expressed its concern that broad statutory language might eventually be extended far beyond its intended target — organized criminals — and reach political protesters.

No one was so prescient as to imagine that public relations activities on behalf of multibillion-dollar multinational corporations — and involving no physical violence whatsoever — could possibly be swept within RICO's grasp. Even a mere suggestion to that effect would likely have occasioned scorn and ridicule. Indeed, the Senate committee report on the statute, typically a highly reliable indicator of congressional intentions, "focused exclusively on organized crime and the effect that it has on legitimate businesses, industries, and the economy of the entire nation." Floor debates at the time of passage further support this interpretation of congressional intent.

When courts allow continued expansion of civil RICO into the constitutionally protected arenas of political and commercial speech and debate, the perversion of the statute to a point almost beyond recognition is complete. The law of unintended consequences once again triumphs.

If the theory advanced by Florida is successful, meaningful debate on controversial public policy issues in which business corporations have a stake can be expected to disappear from the airways. Why would the spokesman for a minority point of view on a hotly contested issue risk being accused of having committed an act in furtherance of a racketeering enterprise? Even assuming such a lawsuit would eventually be thrown out of court, the spokesman/defendant would still incur the expense and inconvenience of defending the action. Only if the plaintiff was shown to have acted frivolously, and thus be liable for monetary sanctions, would the public relations executive

gain some measure of compensation for his troubles.

The ultimate example of Florida's venomous attitude in pursuing this lawsuit can be found in paragraphs 78 and 79 of the complaint. According to the claims in these paragraphs, certain actions by the defendants are defined as acts of "Deceit and Fraud" actionable under RICO. What did the defendants do?

They refused "reasonably to settle claims"; they tried "to run up plaintiffs' attorneys' fees in a war of attrition"; they established a special division "to promote and develop research and expert witnesses needed for the defense of tort litigation"; and they made various documents subject to review by legal departments and law firms.

In effect, the defendants are accused of mounting a vigorous defense. These allegations have the effect of demonizing legitimate corporate behavior. Even laymen must question the propriety of pleadings that choose to characterize as unlawful such well-established litigation strategies.

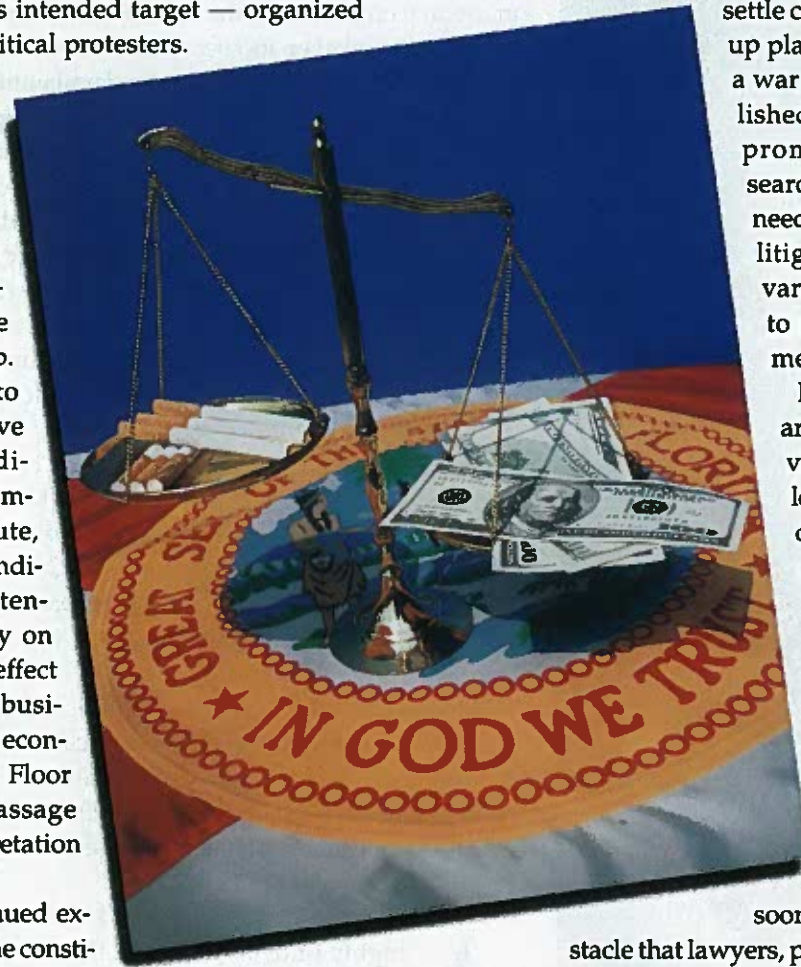
Having one's name cavalierly associated with racketeering may soon be an intimidating obstacle that lawyers, public relations managers, and public affairs specialists will be forced to confront as they articulate their clients' positions in public forums.

soon be an intimidating obstacle that lawyers, public relations managers, and public affairs specialists will be forced to confront as they articulate their clients' positions in public forums.

ADVERTISING CLAIMS

Central to the RICO complaint is a 10-page paragraph setting out 26 examples of allegedly deceptive and misleading advertisements. The first-cited ad appeared on Feb. 10, 1958, well before the Florida RICO statute was written (1977) and at a time when the state of knowledge about the potential dangers of smoking was only a fraction of its current level.

In the excerpts that are reproduced, none of the ads claim that smoking is healthy, yet all are alleged to be untrue and misleading. In short, relatively mundane and entirely unexceptional product advertising has been elevated to a major element of the RICO complaint.



One can readily envision similar allegations at some future date in which the words "drinking alcohol" or "eating high-fat meat (or dairy or fast food) products" are substituted for "cigarette smoking." Such possibilities are especially ripe in those states that are currently pursuing Medicaid recovery actions.

Undoubtedly, state governments have made substantial payments for health care costs incurred on behalf of Medicaid recipients who are suffering from diseases directly caused by ingesting alcoholic beverages and high-fat foods. Similarly, purveyors of these products could be shown to have failed to reveal fully, in every advertisement or other public communication, all possible health dangers known to them.

Medicaid recovery lawsuits, especially when they contain a RICO component, only serve to up the ante for corporations already at risk of being sued over their advertising. Indeed, Florida's lawsuit is far from the first case that has sought to bootstrap a civil RICO claim out of allegations that mail and wire fraud violations were committed when purportedly false and misleading advertising appeared. Commonly, in fact, federal or state regulatory action has preceded these lawsuits.

In this respect, Florida's tobacco suit fits the profile. Charges and allegations about the purported addictive nature of nicotine undergirding the FDA's anti-smoking program are also central elements of the state's complaint.

One fast food restaurant recently launched a marketing campaign designed to sell more french fries, a fast food item notoriously high in fat. Featuring popular professional basketball players, none of the ads contains a health warning. The only obvious difference between such products and cigarettes may well be that trial lawyers have yet to turn their attention to the former, preferring instead to establish favorable legal precedents in cases against the highly unpopular tobacco industry.

The temptation for business executives, who to date have somehow managed to avoid the class-action litigation cesspool, is merely to plow forward, confident in their "it-can't-happen-to-me" posture.

Indeed, far from being immune to assaults mounted by plaintiffs' lawyers, top managers of highly successful corporations may have the most to fear from the litigation juggernaut. Their enterprises have the deepest pockets and plenty of opportunities both to make mistakes in producing or selling their products and to cause injury to large numbers of people when they do.

Once that happens, count on the plaintiffs' trial bar to waste little time in filing either a massive class action lawsuit, or a very large number of individual actions as part of a mass tort strategy, or both. If the product in question was extensively advertised, in all likelihood RICO allega-

tions will be included. Widespread media attention that complicates defense efforts to obtain a fair hearing can be anticipated when the victims are particularly sympathetic (e.g., recipients of breast implants or users of Norplant contraceptives); the injuries are regrettably severe (e.g., serious lung diseases contracted by workers exposed to asbestos); or the defendants are deemed politically incorrect (e.g., cigarette manufacturers).

NO SAFE HARBOR

In 1995, Congress acted to carve out of federal civil RICO those cases predicated on securities fraud.

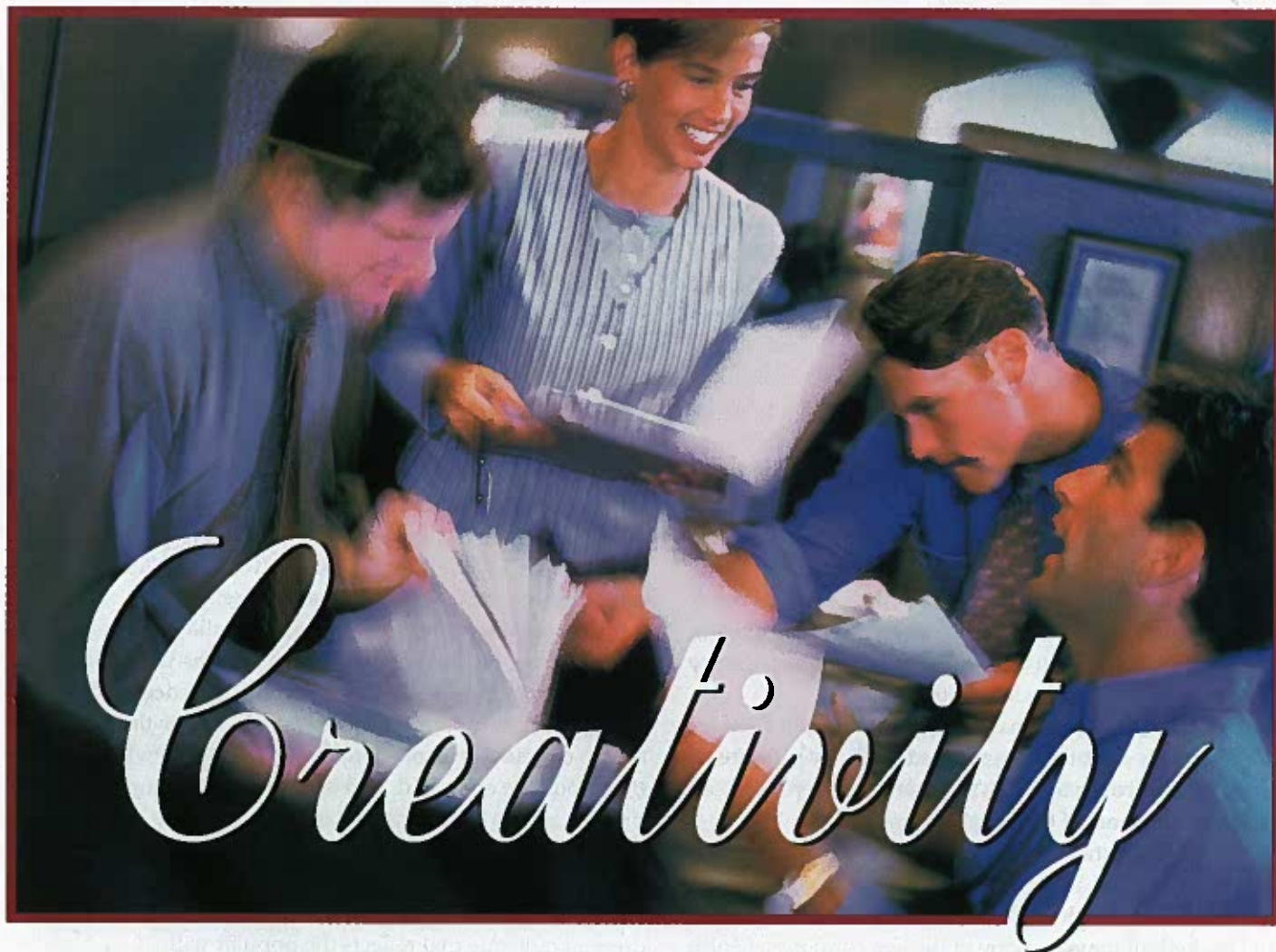
Legislative history for that amendment quotes testimony by Securities and Exchange Commission Chairman Arthur Levitt to the effect that "it is both unnecessary and unfair to expose defendants in securities cases to the threat of treble damages and other extraordinary remedies provided by RICO" because securities laws "provide adequate remedies for those injured by securities fraud."

If the adequacy of existing remedies is the standard to be applied, then most commercial RICO claims would be dismissed outright. Where existing remedies are deemed insufficient, the appropriate response would be for the Legislature to conduct a reasoned inquiry into ways in which sanctions could be enhanced, and then to act accordingly. Such a process allows those with an interest in the issue to come forward and be heard. The legislative approach — the essence of procedural due process in a political context — inevitably involves compromises, but theoretically it will produce an outcome that reflects the popular will.

Instead, over the past decade, the courts have taken it upon themselves to allow trial lawyers to stretch RICO actions to cover business situations far removed from the egregious violations contemplated when the law was originally enacted. Subsequent efforts by certain courts to reverse the trend through procedural tinkering are commendable for their objectives, but ultimately only serve to create more uncertainty.

Defendants can never be sure when they enter the courtroom whether a newly minted RICO theory will be accepted, or whether the court will accord the existing statute a broad or a narrow reading.

While this is frequently the case regardless of the statute being pleaded, the situation is especially troubling in RICO actions. At present, civil RICO is a sledgehammer, often used to pound down opponents. Medicaid third-party recovery lawsuits that are beginning to include RICO components may become the Asian flu bug of commercial litigation, soon infecting other industries producing legal products. As with any plague, its spread is random but relentless, and misery is guaranteed for all with whom it comes into contact. ■



Brings Business To Life

The sales director came sauntering into the conference room, ready to make the most of the meeting. Struggling to improve performance and sales, the employees had gathered to brainstorm on ways to turn the business back around. Making widgets, it seemed, was not the business it once was, with applications continually changing and competition ever increasing.

Tension was high and expectations

low as the group sat quietly around the table. Suddenly, Mrs. Jones climbed up onto the table and shouted "Carpe Diem." She announced that the view of the room, as well as of her colleagues, from atop the table, provided a unique perspective that she had never observed before. For example, Mr. Barnes's hair was thinning.

Laughter erupted and the tension in the room dropped dramatically. People began to loosen their ties as well as their brains, and ideas began to flow freely. They were no longer preoccupied with having the "right" idea, but felt free to think out loud. With time, they began building

upon each other's ideas, and concepts soon began to come together. What started out as yet another meeting was transformed into a creative jam session with new business strategies that could be practically applied to help resurrect the ailing company.

In order to meet the demands of a rapidly and continually changing business environment, more flexibility and creativity are required now than ever before. This means changing the way we think about, manage, operate, and generate new business in a competitive marketplace.

The changing business environment affects all levels of personnel, from business owners, executives, and managers to administrative assistants, support staff, and laborers.

BEING CREATIVE AND FLEXIBLE does not mean operating haphazardly and throwing caution to the wind.

Redefining, reintegrating, and subsequently regenerating business practices to incorporate creativity, flexibility, and excitement will help ensure that companies not only survive, but thrive.

Although doing the job well is obviously critical, it is also vital to have fun along the way. Allowing — and encouraging — people to use their creative potential at work has substantial benefits, including higher job satisfaction, increased motivation and productivity, improved quality, more commitment, lower absenteeism, and reduced stress and fatigue.

Work satisfaction increases dramatically when people know that they are not only being heard but are essential participants, which is in turn reflected in the way they interact with people, including customers. Empowering people to assist in creating and developing business practices builds allegiance and investment in the company. It's the life that transforms a mere job into a career. Building a business with a team of individuals who have diverse personalities, interests, and strengths maximizes the potential to generate new ideas that will allow companies to develop and maintain their creativity and vitality, and, thus, their profitability.

When work satisfaction is high among employees, businesses prosper. A business with happy employees tends to have happy customers. All else being equal, such as quality of work and timeliness, customers gravitate toward people (and therefore companies) that make them feel good. Since all businesses are built upon relationships, the more energetic, creative, and flexible people are, the more

business they are likely to develop. Efficient, energetic employees mean competitive, profitable businesses.

The sterile, stuffy, business-as-usual environment will have an increasingly difficult time prospering as we move into the next century. Developing general guidelines and job templates and allowing individuals to make adjustments to suit their own style and particular strengths is typically the most efficient and effective way to operate. The most successful businesses of the future will find creative ways to balance business structure and professionalism with flexibility and creativity.

Being creative and flexible does not mean operating haphazardly and throwing caution to the wind. There are several key elements to the creative process that yield tangible and sound business results. It goes without saying that background research is the essential first step. You must be aware of what's out there, and know the competition, how the markets fluctuate, etc. Only then, can you begin to brainstorm *creatively* on how to make products and services more novel, interesting, and efficient.

This last step is the one most commonly ignored, and perhaps the most difficult to achieve for several reasons. However, the power of the subconscious to create, refine, and implement ideas is immeasurable, and there are numerous ways to kindle the creative spark. First, it is essential to create an environment where this is possible. Whether it's simply getting away to the local bagel shop, asking people who aren't involved for their ideas, or charting a boat and discussing ideas while catching tuna, stimulating

circumstances lead to stimulating ideas. It is very important to be able to think out loud, to have fun and relax, and be able to discuss "foolish" and "crazy" ideas.

Also, you must allow yourself the opportunity to fail, for only then can you truly be successful. As Michael Jordan stated in one of his commercials, "I was given 26 opportunities to shoot the game-winning basket and missed." Those who excel are driven by their desire to succeed, not their fear of failure.

Whatever the environment, once creative sessions have occurred and there are an abundance of ideas, *then* it's time to evaluate what's plausible. It is essential that this type of refinement occur *after* creative sessions, otherwise creativity is immediately snuffed out by what's practical, and business-changing ideas will be lost. Most people have the tendency to evaluate ideas as they are suggested, instead of allowing the power of free association to generate *really* good ideas. Meetings held in this fashion tend to produce more anxiety over what isn't possible than excitement over what is, a trap that should be avoided.

Business practices have become far too rigid, routine, lackluster, and unappealing in many respects. The infusion of new ideas to stimulate growth and development is essential for businesses today. Although necessary, formalities and protocols can easily become stifling and markedly hinder progress. Perhaps Mark Twain summed it up best: "Never let *formal* education get in the way of your learning." Take time to be open, reflective, and creative — and reap the many rewards. ■



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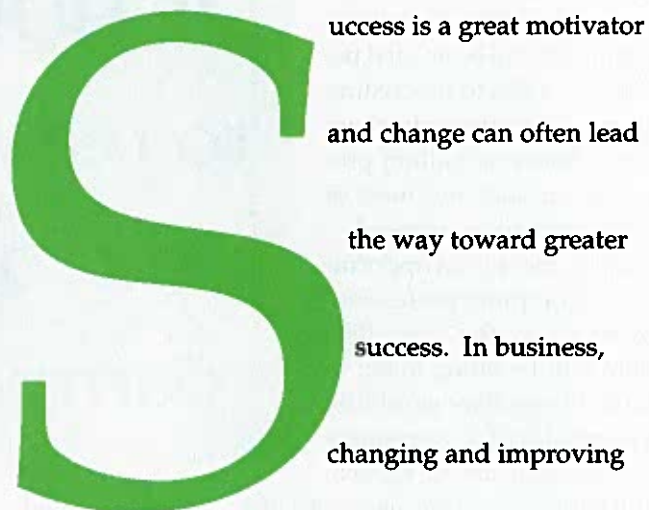
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Taking ADVANTAGE Of The Year 2000 Problem

by jeff minder



Success is a great motivator
and change can often lead
the way toward greater
success. In business,
changing and improving

processes is often referred to as reengineering.

There are many benefits to reengineering. Right now, the most obvious benefit — the one causing an increase in demand for computer professionals — arises from the year 2000 problem. As you probably know, early computer programmers saved valuable space by allowing only the last two digits of the year whenever a date was entered into a computer program. Unless software is rewritten to allow four digits for the year, the computer will think the year 2000 is really the year 1900.

The impact of this impending crisis has been likened to the stock market crash of 1929. To avoid catastrophe, all computer systems will have to be year 2000 compliant. It is estimated that 14 million programmers will be needed before Dec. 31, 1999, to fix existing programs; unfortunately there are fewer than one million programmers around, and most of them are gainfully employed.

However, there is an opportunity here. Computer professionals hired to fix the year 2000 problem will be doing many of the same things they would do if they were hired to reengineer an entire system. Hiring them to do both at the same time may cost a little extra, but it could save you money in the long run. But truly effective reengineering involves much more than buying new software and hardware. It's an in-depth process that can help you give your entire business a boost.

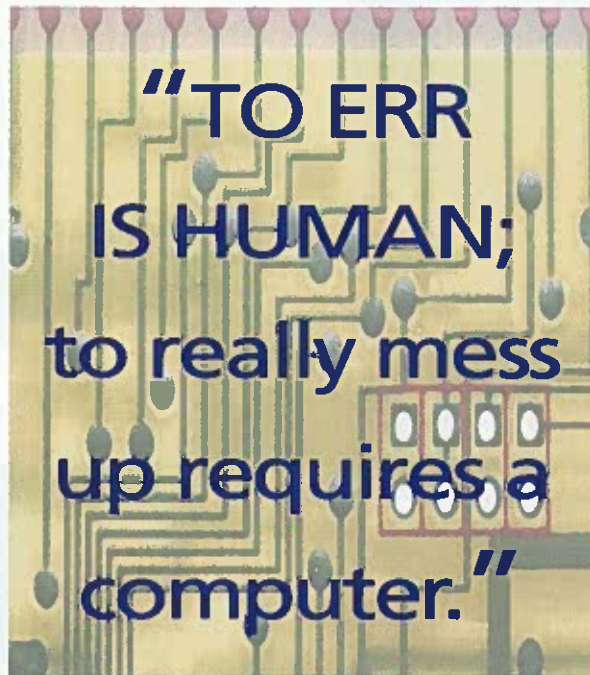
SOMETHING COMES IN, SOMETHING GOES OUT

In one sense, every business operates the same way: raw materials, product components, and purchase orders come in; finished products go out. A business system defines everything required to retrieve these incoming items, then process, ship, and support the finished product.

Every business system involves three elements: people, machines, and business processes. Successful business people know that they must regularly step back and take a hard look at that system. Ignoring any or all of the elements in the system can result in business failure.

There's plenty of information out there on improving employee performance. Diagnosing problems with computers and processes, however, is much more difficult, as computers will only do exactly what we tell them to do, even when we are wrong. As one observer noted, "To err is human; to really mess up requires a computer."

If a business process is not designed effectively, a computer system will not fix problems; it will only amplify them. If you try to reengineer your computer system without examining and streamlining the business process, you end up with a computer system that controls how you conduct business, instead of a computer system that supports the most effective way of doing business.



Let's take the example of a doctor who wants to improve efficiency in his office in the area of billing. If he has an inefficient billing system, a computer will just allow his staff to be efficiently inefficient. But if he has reengineered his business process by devising new forms and new procedures, the system will allow his patients to move in and out of his office more effectively. He has streamlined his processes to give him an advantage over his competitors. Now it's time to reengineer his computer systems to support this new way of doing business.

He might go shopping for an off-the-shelf software package

to run on his current computer system. Unfortunately, there are no computer programmers who are experienced in this doctor's new way of doing business, so the software packages would force the doctor to adapt his new and improved processes to those of the computer software, stripping him of the advantage he has gained.

What he needs is a computer expert who can develop the program that supports his way of doing business.

OUTSOURCING: A COMPETITIVE EDGE

Even if you've got a talented staff of programmers, all computer operations should be well defined and sent out for competitive bid. This gives you a couple of advantages. First, a dose of friendly competition will keep your computer staff on their toes, an effective inoculation against the complacency virus. Second, outsourcing your computer operations is a good way to ensure an objective evaluation of your business processes. That is crucial to a successful reengineering process.

The first phase of reengineering computer systems focuses on educating an outside computer programmer or systems analyst on your specific business processes. This is generally accomplished through a study phase.

Educating a computer professional on your business processes can be a painstaking and time-consuming task. It must be conducted in a thorough and exact way so as to give you the greatest opportunity to obtain the best possible computer system while minimizing the impact on your day-to-day activities. Once the programmer/analyst fully understands the processes, he can effectively design the software to support those processes.

MAKING REENGINEERING WORK

The leadership required to run a business is also necessary to guide and direct computer support personnel. Whether they are in-house or brought in from the outside (outsourced), business leaders must ensure they get the most out of the money they spend.

Set aggressive goals for completion of the re-engineering process. Outsourcing the work on computer systems never means outsourcing the decision-making processes. By controlling the process of the development of business systems, owners are better served by the end product. By being intricately involved in the process, they ensure the system supports their way of doing business. Select computer personnel who can communicate effectively with you.

Take a close look at your business. Do your people, processes, and computer systems support the way you want to do business or do they limit your business? All three components must work in harmony to effectively grow a business; in most markets, they are essential to business

survival. Reengineering systems increases business potential by improving service and cutting costs.

The leadership on computer system reengineering will be enhanced by effectively reengineering the business processes first. Know these processes inside and out. Streamline and document each process so that others can effectively support it. Using this documentation as a guideline, a computer professional can ensure that the system supports the business.

Ensure that systems will still be operational on Jan. 1, 2000. Computers don't run by magic. They require input to support processes.

There has never been a better time to reengineer business systems. Stamping out the bugs in all systems increases throughput, reduces costs, and achieves ownership of a larger percentage of the market share.

Businesses must constantly reduce costs and increase service. Reengineering business processes and then following through with the reengineering of computer systems will satisfy these requirements. ■

The Advantages of Reengineering Computer Systems

- Microcomputers (PCs) are cheap, fast, and abundant. The computer increasingly resembles the telephone as a device used to get to a service. Few systems still require an expensive mini-computer or mainframe. The money saved on annual maintenance of the old hardware alone can usually pay for all the new hardware.
- New software development tools are far more robust and allow rapid development of computer programs and prototypes. They provide a graphical user interface and the standard is Open Database Connectivity. This can protect you from falling into the "proprietary software trap."
- Most existing networks run at 16 megabytes per second line speeds or less. New technology allows for 100 to 200 megabytes per second. This enables rapid retrieval of large volumes of data and allows new programs to offer a wider range of capabilities.
- Access to information on the Internet is allowing for off-site data warehousing and fast access to immense amounts of data. Cable modems, new network security features, and Intranet development options can prepare your system for the next decade.
- Storage is cheap. In April of this year, a nine-

gigabyte SCSI hard drive was selling for \$1,400. This allows for an increase in the type of data stored on computer systems. Imagine pulling up a client file on the computer screen and having all the paperwork associated with the client right there in front of you. Imaging systems are on the rise and offer cost savings to existing paper storage and retrieval systems. Image-enabling a computer system can mean cost reductions that can help offset the up-front costs of a new system.

- Most systems have been grown piecemeal. This usually results from the purchasing or writing of programs without the effective study of what is needed and without reengineering the business processes first. Important data may reside in several different databases and flat files on our systems. These differing systems can be replaced with an enterprise system that can be easily recovered in a disaster, and can be more easily managed, controlled, and improved. ■

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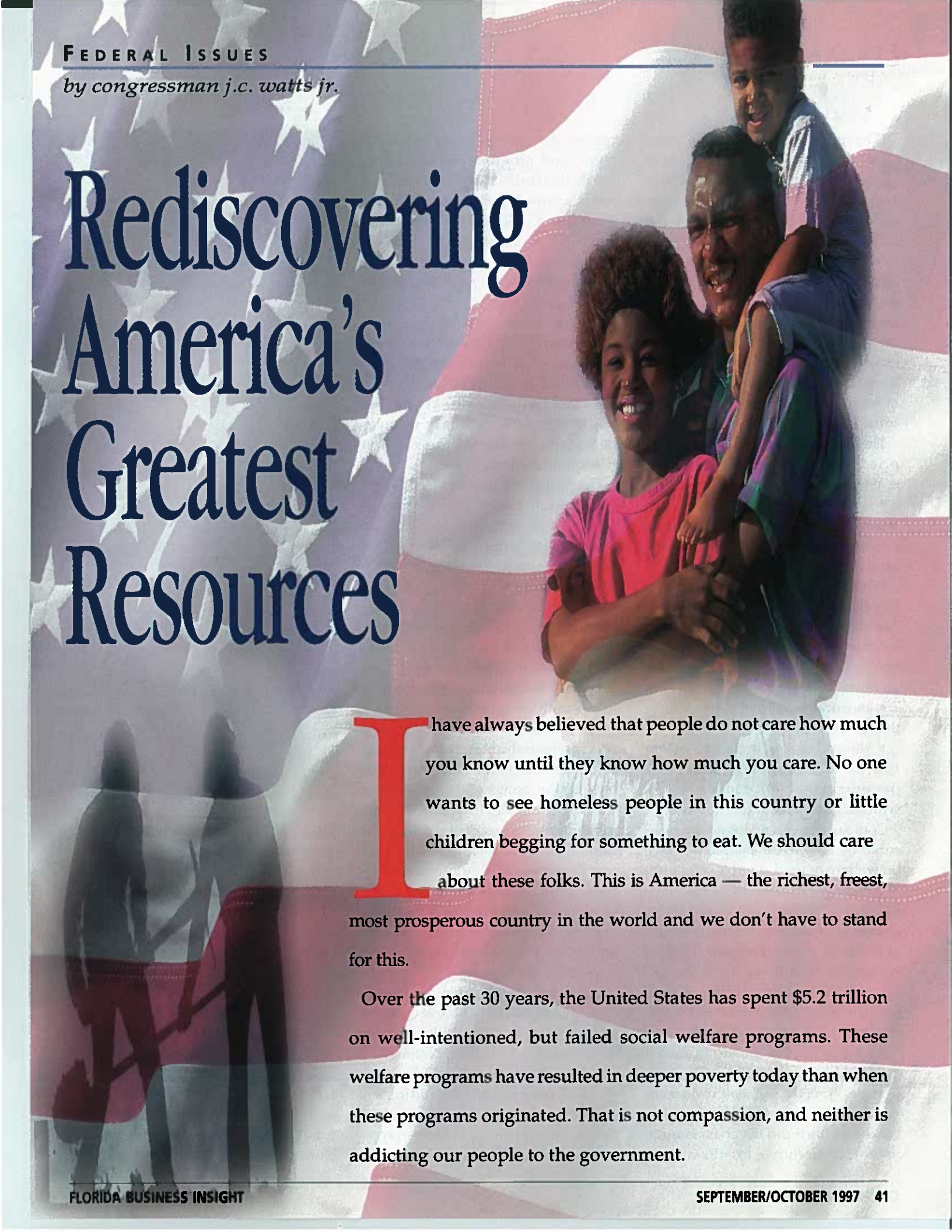
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by congressman j.c. watts jr.

Rediscovering America's Greatest Resources



I have always believed that people do not care how much you know until they know how much you care. No one wants to see homeless people in this country or little children begging for something to eat. We should care about these folks. This is America — the richest, freest, most prosperous country in the world and we don't have to stand for this.

Over the past 30 years, the United States has spent \$5.2 trillion on well-intentioned, but failed social welfare programs. These welfare programs have resulted in deeper poverty today than when these programs originated. That is not compassion, and neither is addicting our people to the government.

I have introduced legislation, along with Congressmen Jim Talent of Missouri and Floyd Flake of New York, that I believe can restore hope in American cities and reorder our failed social programs.

This legislation, titled the Community Renewal Act, encourages economic and spiritual renewal by promoting work, family, faith, and community. We cannot predict the future, but we can learn from the past, and the past has taught us that throwing money at a problem is not the way to solve it.

The act is built on the following principles of economic and moral renewal:

- encouraging investment in low-income communities by cutting taxes on job creation and cutting the capital gains tax;
- emphasizing quality education by offering families the choice to use new federal money in the form of scholarships to send their kids to private schools, including faith-based schools;
- encouraging families to save for the future; and
- removing obstacles to allow faith-based organizations to provide the programs that produce results without government interference.

Compassion can no longer be measured by how many people we have on welfare or food stamps, or in public housing. Compassion needs to be measured by how many people have gotten off of welfare and food stamps, and out of public housing because we have helped them climb the ladder of economic opportunity. This is the principle upon which the Community Renewal Act is based.

A specific point of interest in the bill is the empowerment zones. The 103rd Congress created 105 empowerment zones and enterprise communities, but these efforts did not go far enough to provide incentives to cultivate and

nurture entrepreneurs, create investment, and provide for community revitalization in some deprived areas around the country. So, the American Community Renewal Act proposes to create 100 "Renewal Communities."

To qualify as a renewal community, an area must have a poverty rate of 20 percent or more, an unemployment rate one-and-a-half times the national rate, and experienced a population decline of 20 percent or more between 1980 and 1990. At least 70 percent of the households must have incomes below 80 percent of the median household income.

The purpose of this act is to liberate economic forces within disadvantaged communities by fostering an atmosphere where private sector businesses and jobs are created. It recognizes that new and expanding small businesses are best suited to provide good jobs in urban neighborhoods. It comes from specific ideas that urban entrepreneurs believe are necessary to economically restore our low-wealth communities.

But how does the act really help entrepreneurship? It requires local communities to reduce tax rates and fees within zones and to eliminate state and local sales taxes to be eligible for community designation. In addition, states and local governments would waive local occupational licensing regulations and other barriers to market entry, except those explicitly needed to protect health and safety. This will help to expedite small business start-ups.

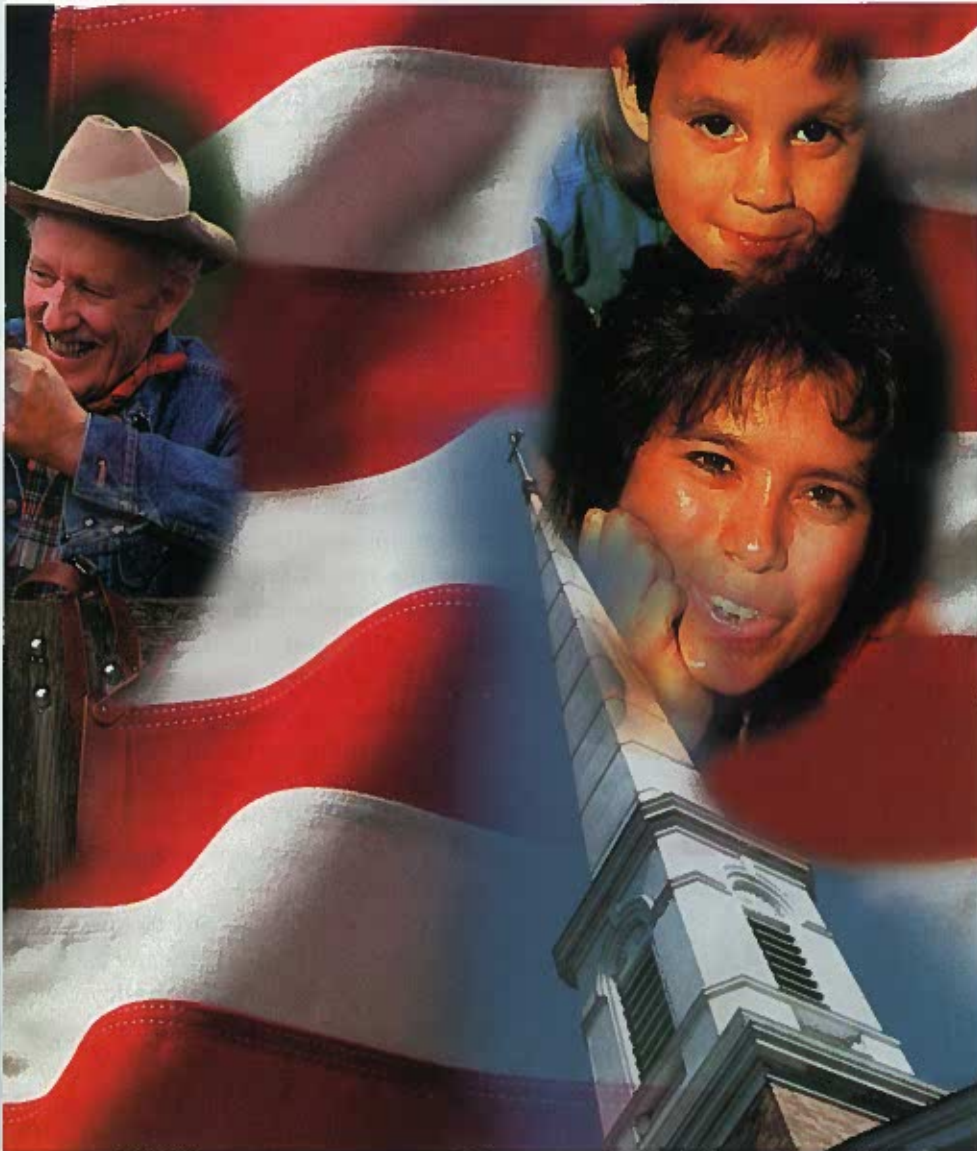
Another incentive for investment and business creation would be the ability of these new businesses to take advantage of substantial federal tax incentives for renewal communities including an elimination of capital gains taxes on investments in stock, business property, or partnerships within zones so



long as the assets are held for five years or longer.

The bill also includes tax credits for commercial revitalization and allows for individuals to take a deduction for the purchase of business stocks within the zones, and will include a business tax credit for hiring disadvantaged workers.

The act will also give state and local governments the ability to request waivers from oppressive federal regulations within the zones. These regulations will be selected from those outlined by the Commission on Unfunded Mandates. Finally, this act includes a provision to allow banks to



meet their Community Reinvestment Act (CRA) requirements by lending money to qualified community development intermediaries. This is not a lessening of CRA obligations. It will allow banks to meet their obligations by working with lending institutions and neighborhood groups.

I believe our legislation will meet its goal for two reasons. One, the ideas in the act, such as empowerment zones, come from the people who live and work in these impoverished areas and know best how to revitalize their communities. Two, I know from firsthand experience the temptations and obstacles that arise from growing

up in a poor neighborhood, and I know that the strength of the family and community are the best tools for overcoming these obstacles. To truly understand why I feel so strongly about the principles of the Community Renewal Act, community participation and economic empowerment, I would like to take you back a bit.

I grew up in a poor, rural town called Eufaula, Okla. My father worked three jobs to support our family, and although we didn't have much money, my parents managed to give me an even greater gift. Helen and J.C. "Buddy" Watts gave me strong values. They taught me that

character matters, that morality matters, that hard work and sacrifice to achieve your dreams matters, and that you should be responsible for your own actions. My dad always said, "Son, the only helping hand you can depend on is the one at the end of your sleeve."

These values have been a priceless gift throughout my life as a football player, youth minister, father, and congressman. I have also discovered my dad was right about self-reliance. If we want to meet our goals, we must rely on ourselves rather than the government. The Community Renewal Act takes control away from Washington bureaucrats and empowers the parents to take control of their families and neighborhoods and teach their kids the same values of self-reliance that my parents taught me.

One way the act encourages self-reliance is to strengthen the link between effort and reward. Unlike our current system, the Community Renewal Act rewards people for their efforts instead of punishing them.

We need to take back our social responsibilities from a government that sees human beings as numbers. I'm convinced there are many people on welfare who don't want to be there. But when a welfare mother takes a job trying to make money to raise her family, she'll find she brings home less money than she gets on welfare, and we say that's the mother's fault. That's not the mother's fault, that's the fault of the system.

Throughout my life, I have seen these problems with welfare and other government programs firsthand. I have seen them hold individuals down, instead of lift them up. The Community Renewal Act approaches these problems from a different angle, the "try-angle," and helps people stand on their own.

The past 30 years have taught us that throwing money at a problem is not a solution. People, not government, are our biggest resource. And people, not government, change hearts. Our legislation removes needless government obstacles and allows people to be a resource — to truly help those in need.

This legislation is designed to give citizens a vested interest in their community. I have traveled all across the country to 35 different states to visit groups like the Victory Fellowship in San Antonio, Texas, the Boys Club in Macon, Ga., and Doc Benson's TEEM in Oklahoma City. Programs like these are the genesis and inspiration for the Community Renewal Act because the programs work and change

THIS LEGISLATION REMOVES needless government obstacles. It allows people to be a resource and to truly help those in need.

lives. Doc Benson has above an 80 percent success rate on a \$100,000 budget. Can you imagine what he could do if he had \$5.2 trillion to work with?

We have a golden window of opportunity with the Community Renewal Act to do something new for this country. To create this legislation, we went outside of Washington and

talked with grassroots organizations across the country because the charitable organizations and neighborhood groups are the ones who are getting the results we want. We involved neighborhood organizations, entrepreneurs, and charitable nonprofits. We talked to ministers. We talked to business men and women. We talked to anti-gang organizations. They are the ones getting people off welfare and putting families back together. We said, "You tell us how it should be done."

This country cannot afford to lose another generation of Americans to the government-knows-best policy. Our greatest strength is people and our future lies in building on people, not on failed government programs. I guarantee that if, over the next 30 years, we advocate the principles of the Community Renewal Project — family, faith, work, and community — as fervently as we did those of the Great Society, America will see fewer homeless people and hungry children.

I call upon the grassroots groups and city and business leaders to continue their efforts and help us in this fight for our children's future. Get involved with your government and take an active role in the policy development going on in Washington. With your help, we can make a dramatic difference and help future Americans understand the meaning of true compassion. ■

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Today we seem left with only a shadow of Washington’s greatness. Once a year, he appears on television to sell us cars and appliances.

Yet, more than any other man, George Washington set the course for a young nation, born of revolution but sustained in peace.

As a 22 year-old militia man, he fired the first shots of the French & Indian War, the contest that freed American colonists of the yoke of British protection against France’s New World aspirations.

He twice walked a path strewn with peril for the young democracy, a path that easily could have ended in despotism.

At the end of the Revolutionary War, he was the

most powerful man in America, yet he resigned his commission and returned to the farm. As president, he again freely relinquished command, trusting in the great American mission to prove that humankind was good enough to govern itself without the influence of dictators.

In 1790, George Washington received a gift from the Marquis de Lafayette — the key to the Bastille, the infamous prison that sparked the French Revolution, sent as a token of affection to the patriarch of liberty. In return, Washington gave the Marquis a pair of shoe buckles manufactured in Washington, D.C.

American shoe buckles or symbols of anarchy? History proves Washington gave the better gift. ■

WE'VE SEEN A LOT OF CHANGES IN FLORIDA



When we came here in 1931 to grow sugar cane, Florida looked quite a bit different than it does today. There were a lot fewer people and much smaller towns. But even then, Florida was known as a place that attracted new people and new businesses with new ideas about how to do things. People just like the employee-owners at U.S. Sugar Corp.

We brought new ways of farming to South Florida that reduced the use of chemicals and fertilizer. We took other innovative steps to keep our environment clean and safe, long before it



became a matter of concern.

We grew along with

Florida and today, with more than 2,500 employees, we've become a major contributor to the state's economy.

We are the largest producer of cane sugar in the state. We also grow oranges and, with our state-of-the-art processing plant, have become one of the nation's leaders in orange juice production.

Soon we'll complete the most innovative sugar refinery in the country, providing new jobs and opportunities for Floridians.

And, this summer we joined forces with United Sugars, a cooperative of the leading sugar beet farmers in the mid-West to market all of our refined sugar — making us part of the first nationwide producer/distribu-

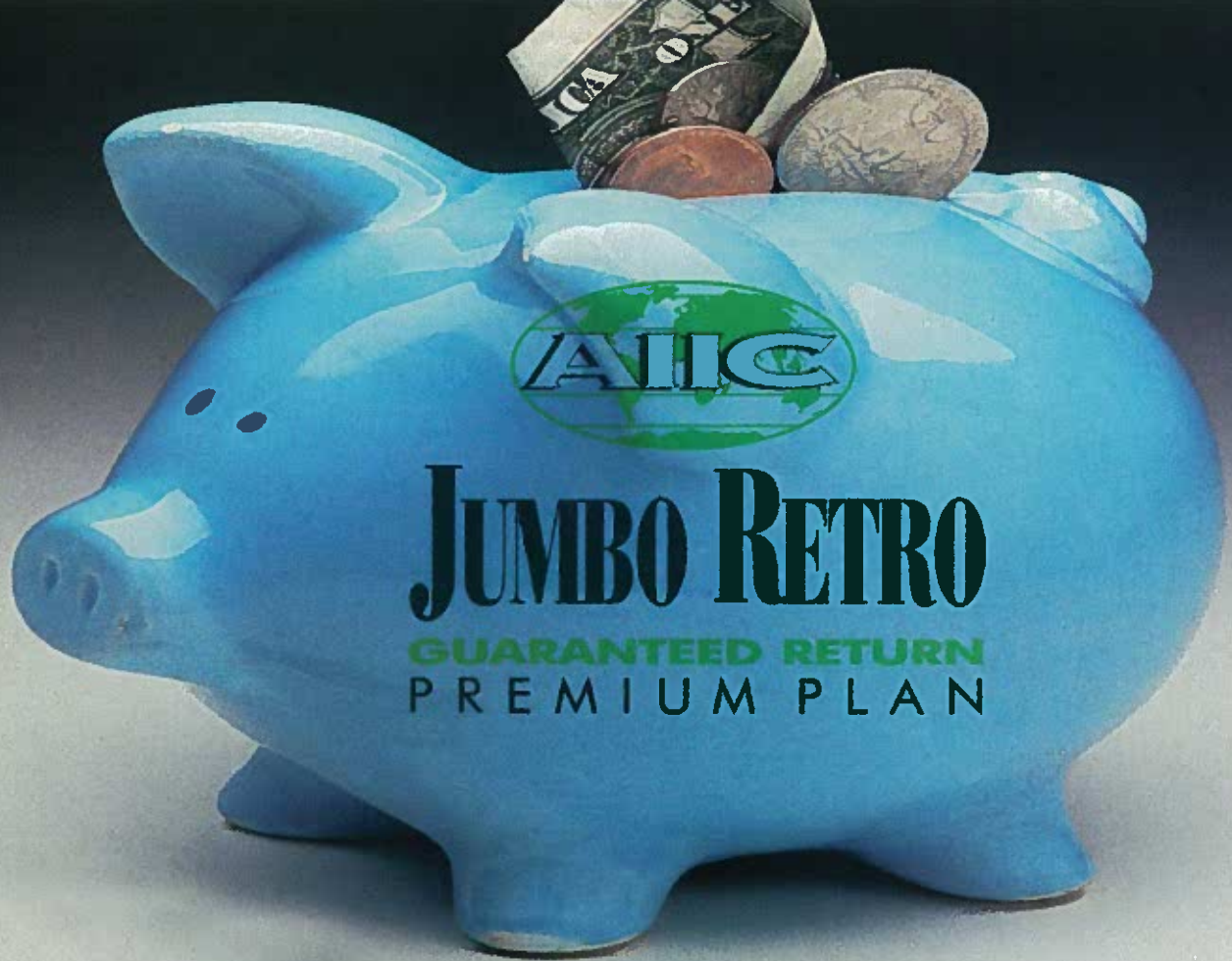
tors of sugar. We will market the first truly national brand of sugar — Pillsbury's Best.



We invest in our people and our communities. We work hard to keep Florida's environment safe and clean so that our children — the farmers of the future — will continue to make agriculture an important part of Florida's future.

United States Sugar Corporation

An Employee-owned Family of Agri-businesses.



Our Workers' Comp Plan Has Some Great Things In Store For You — *Guaranteed!*

Our Jumbo Retro Program gives you something you can bank on — results! Of all our initial Jumbo Retro accounts, 90 percent recently received a Return Premium check.

Not only that, but 95 percent of those insureds received the maximum return based on their individual premium size.

The Jumbo Retro Program, designed for small- to medium-size businesses, employs aggressive loss control and safety programs and rewards insureds with a *guaranteed* return of premium up to 20%.

Other companies can only offer dividend promises. AIIC is the *only* workers' comp company in Florida approved by the Department of Insurance to *guarantee* a return of premium.

If you're safe and you'd like money back for your efforts, your advantage is AIIC's Jumbo Retro Program. Discover the difference you can bank on!

NO OTHER PROGRAM IN FLORIDA CAN DO WHAT JUMBO RETRO DOES. FEWER LOSSES EQUALS A GREATER RETURN OF YOUR PREMIUM DOLLARS — GUARANTEED.

Contact Your Agent Or AIIC For More Information.

Associated Industries Insurance Company, Inc. • Boca Raton, Florida • (800) 866-1234



Workers' Compensation Insurance Return Premium Plan						
Premium Range	Incurred Loss Ratio					
	Less Than 10%	10% to 19%	20% to 29%	30% to 39%	40% to 49%	50%+
Percentage of Return Premium						
Less than \$5,000	5%	3%	3%			
\$5,000 to \$10,000	6%	5%	3%	3%		
\$10,000 to \$20,000	8%	6%	5%	3%		
\$20,000 to \$30,000	10%	8%	6%	5%	3%	
\$30,000 to \$50,000	12%	9%	7%	5%	3%	
\$50,000 to \$75,000	15%	12%	9%	6%	3%	
\$75,000 to \$100,000	17%	13%	10%	6%	3%	
Greater than \$100,000	20%	15%	10%	6%	3%	