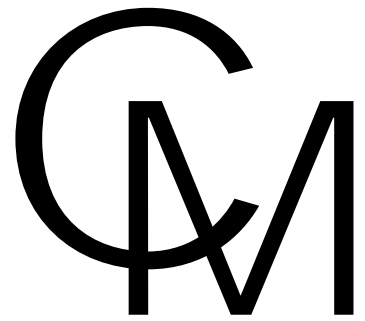


# The California Merchant



May, 2008

Vol. 20, No 5

## Great rates for 2008!

As you probably know, your association, California Merchants Safety Association (C.M.S.A.), is no longer working with the State Compensation Insurance Fund. We have partnered with Heffernan Insurance Brokers to bring our members a new workers' compensation insurance program with **AMAZING** rates.

Check out the 2008 base rates comparison below and make sure to get a quote for your company A.S.A.P!!!

Workers' Comp Class Code	New Heffernan 2008 base rate*	Compare	SCIF 2008 base rate	Class Code Description
8017	\$4.52	<u>vs.</u>	\$6.52	Stores- Retail- N.O.C.
8018	\$7.61	<u>vs.</u>	\$10.98	Stores- Wholesale- N.O.C.
8387	\$5.44	<u>vs.</u>	\$7.86	Auto Service Stations
8389	\$5.92	<u>vs.</u>	\$8.54	Auto Repair Shops
8392	\$9.21	<u>vs.</u>	\$13.30	Auto or Truck Storage Garages
8061	\$5.69	<u>vs.</u>	\$8.21	Store, Groceries
8391	\$4.24	<u>vs.</u>	\$6.12	Auto Truck Dealers- employees
8324	\$6.08	<u>vs.</u>	\$8.77	Auto Gas Stations
9516	\$5.25	<u>vs.</u>	\$7.58	Television, Video, Audio Equip. - service/repair
9519	\$8.03	<u>vs.</u>	\$11.59	Household Appliance- service/repair
7198	\$11.28	<u>vs.</u>	\$16.28	Parcel Delivery Companies
7232	\$10.86	<u>vs.</u>	\$15.67	Mail Delivery Service Companies

\* All 2008 rates are the filed base rates and do not include any individually earned merits or credits. Actual rates may be lower.

**Our new workers' compensation program through Heffernan Insurance Brokers offers a substantial savings over the State Fund rates. To participate in this new program, be sure to get your quote today!!!**

Call **Heffernan Insurance Brokers** at: **(866) 500-6359** and let them know you are a member of Western Regional Master Builders Association. If you currently use a broker for your insurance needs, you may have your broker call **Tangram Insurance** to get the same program and rates, at **(800) 676-2213 ext. 662** and speak to **Riley Binford**.

**Don't miss out on these savings! Call today for a quote!!!**



HEFFERNAN INSURANCE BROKERS

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**(866) 500-6359**

# The importance of entrepreneurship to America

By Steve Preston  
Administrator, U.S. Small Business Administration

Starting a business is not easy. Entrepreneurs must be willing to take risks others won't. They must work around the clock if necessary, often acting not only as the CEO of their company, but the head of sales, head of finance, and whatever else it takes to get the job done.

It's hard work. In fact, I often say small business owners match every dollar of equity with \$10 of sweat equity. But that's also why they're successful where others are not. America as an economy that regenerates, is flexible, and adapts to opportunity in large part because our entrepreneurial culture has taught us to dream, to see possibilities, and to act on these possibilities.

Why is this important? Since August 2003, more than 7.2 million jobs have been created

—more jobs than the European Union and Japan combined. Our economy has now added jobs for 41 straight months. And American workers are taking home more pay with those jobs. Real after-tax income per person has risen by 9.6 percent – \$2,840 – since the President took office.

Such growth occurs in large measure because of the perseverance and productivity of our Nation's entrepreneurs.

## Nurturing the Innovators

Small businesses drive our economy. They create 70% of the new jobs and represent more than half of our non-farm private GDP.

They drive a tremendous amount of the innovation in our country; small patenting firms produce 13 to 14 times more patents per employee than their larger competitors do. Small business ownership allows people to realize dreams, not only for the owners and their families, but for those they employ and those they serve.

One of the goals of the Small Business Administration is to be a partner to entrepreneurs. Over the years, the agency has helped many of our best known corporate icons get their starts. Intel, America Online, Outback Steakhouse, Apple Computer, Amgen, Ben & Jerry's, Callaway Golf, Staples, Under Armour, Nike, and Federal Express all received help from one of SBA's programs.

Today, we help entrepreneurs in numerous ways:

-- The SBA lends or guarantees more than \$78 billion in loans and investments;

-- It helps small business procure a fair share of government contracts, a record \$80 billion in 2005;

-- Last year, SBA and its technical assistance partners counseled nearly 1.5 million entrepreneurs and its website received 26 million hits;

-- Through its Office of Advocacy, SBA helps protect



small business from harmful new government regulations, and through its National Ombudsman it helps small business deal with unfair application of existing regulation;

-- Over the last six years, SBA lending to minority entrepreneurs has increased over 150 percent. The number of entrepreneurs receiving SBA counseling is up 40 percent.

We are a small agency with a very big reach. We are also an agency with a very big job.

Over the past 18 months, one of the biggest parts of our job has been to help people along our nation's Gulf Coast recover from the 2005 hurricanes. The agency provides low interest, long-term disaster loans to homeowners and small businesses.

In the wake of this disaster, the SBA was simply overwhelmed trying to respond to the demand for construction loans. To accelerate the distribution of funds, it was clear we needed to eliminate bottlenecks in certain areas, reduce errors and rework, and provide a more responsive and compassionate face to the disaster victims.

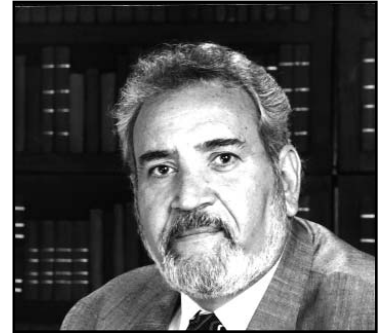
Since last summer, we have fully redesigned our workflow from a production line with inadequate coordination and communication between functions to 15-person functionally integrated teams with much greater authority to make decisions and manage accountability for results. We moved 1,300 staff to support this new process. Each borrower has a relationship manager who understands their issues and can advise and assist them through the process. We began by contacting over 90,000 borrowers in the Gulf Coast region to reestablish those relationships. We have also instituted much

Please see PRESTON, page 6



## LAW TALK

By Sam K. Abdulaziz  
Law Offices of Abdulaziz, Grossbart & Rudman



### More on employment arbitration

**A**lthough this is not a new case it is significant and of interest.

The California Court of Appeal, Second District held that an arbitration provision in an employee handbook was severable from all of the other rights and policies included in the handbook and therefore there was no agreement to arbitrate.

An employee was employed for approximately eighteen years when she was fired. She then filed suit against the employer for various rights dealing with wrongful termination and violations of public policy, etc. The employer filed a motion to dismiss the complaint and compel arbitration. This was all based on the employee handbook.

The handbook was divided into nine sections headed by roman numerals. Section number VIII was titled "Mutual Agreement to Arbitrate Claims." It had an agreement to arbitrate controversies arising out of, or relating to, or associated with the employee's employment with the company or the termination. The final page of section VIII contains lines for dates and signatures of the employee and the employer. This was neither signed nor dated. After section IX, which is entitled "Arbitration Procedure," there was another page with an unnumbered heading titled "Employee Acknowledgement." It has an acknowledgement of receipt of a copy of the handbook and the agreement to abide by the policies, rules, benefits, and procedures. This was signed.

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**The right to arbitrate comes from a contract. The court reiterated that there has to be a written agreement to arbitrate a controversy in order for the court to compel arbitration.**

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The employer relied on the employee acknowledgement to show that there was a binding arbitration agreement. The court held otherwise.

The right to arbitrate comes from a contract. The court reiterated that there has to be a written agreement to arbitrate a controversy in order for the court to compel arbitration. The court found that there were two separate agreements in the employee handbook. One was the agreement to arbitrate, which was the subject of Section VIII. The other is the agreement to be bound by the "benefits, policies, rules, and procedures" contained within the remaining sections of the handbook. It appeared that the reasoning that there were two agreements was based on the fact that the mutual agreement to arbitrate indicated that it was intended to be a complete stand alone agreement. It was entitled "Sole and Entire Agreement."

It also stated that "This is the complete agreement of the parties on the subject of Arbitration of Disputes." Further, it appears that it was important that the final page of section VIII, which dealt with arbitration, was not signed.

Generally, in order to force arbitration, the parties must somehow agree to arbitration in writing. Typically, it is part of the written contract. In this case the arbitration agreement was severable (could be separated) from the balance of the contract. Otherwise, the agreement can be done by way of an agreement to arbitrate after a controversy has arisen. This is typically called a "Submission to Arbitrate," which is signed by all of the parties. In this case there was no signed agreement to arbitrate.

*Attorney Sam Abdulaziz of Abdulaziz, Grossbart & Rudman has been practicing construction law for 30 years. He has written a book called "California Construction Law" which is updated annually. He represents numerous construction trade associations and contractors. He appears at Contractors State License Board meetings and has argued a number of cases before the appellate courts, including the California Supreme Court dealing with the "Pay-If-Paid Clause." Abdulaziz, Grossbart & Rudman provides this information as a service to its friends & clients. The documents are of a general*

**Please see EMPLOYMENT, page 8**



# SAFETY MATTERS



## Don't neglect the small stuff

Infection is often called 'blood poisoning'. It might be of interest to know exactly what is meant by 'Blood Poisoning'. The term itself indicates that it is a poisoning directly related to blood.

There are two ways in which a poison can attack our bodies. It may be taken in through the mouth and enter the body by way of the digestive organs, or it may enter directly into the blood stream through an abrasion or cut in the skin. In any event, every poison eventually works through the blood and the poison of infections works into the blood stream directly.

The smallest cut, abrasion or scratch is large enough for germs to enter. If they are not washed off they will cause an infection which could lead to blood poisoning. If left untreated, a hand or arm could become so infected that it might possibly have to be amputated.

Should you find yourself with a small scratch or cut, be sure to get it washed out and properly covered with a clean bandage. 'An ounce of prevention is worth a pound of cure'. Use an antiseptic wash, and be sure to wash the injury for at least 20 seconds. It may be helpful to follow up with an antibiotic ointment or cream.

Serious cuts and lacerations need to be treated by professional medical personnel.

Most often you'll run up against smaller injuries - burns, nicks, scratches and cuts. The danger here is that most workers don't bother to get first aid for these minor injuries. The



bottom line is - **DON'T NEGLECT CUTS.** Do your part by trying to prevent them from happening in the first place, but when any injury occurs - serious or minor - be sure that it receives the right kind of treatment, as quickly as possible.



## OSHA CORNER

Cal/OSHA Safety Publications

Please visit the following address on the web to download helpful safety posters, guides and pamphlets for a safer workplace.

<http://www.dir.ca.gov/dosh/PubOrder.asp>

Make sure workers understand the importance of keeping tetanus vaccinations up to date. The CDC recommends a tetanus booster every 10 years for adults. Small cuts and punctures can allow tetanus to enter the body. Soil and dirty or rusted metal can harbor tetanus.

First aid kits must be checked frequently to be sure they are clean and fully stocked. This applies to your home and car or boat as well as on the job.

**KEEP MINOR INJURIES MINOR!  
FIRST AID TREATMENT IS IMPORTANT TO PREVENT INFECTION.**

# Safely use and dispose of fluorescent bulbs

**W**e've all been encouraged to switch from incandescent light bulbs to the more energy efficient compact fluorescent light bulbs in our homes, and of course, fluorescent lighting is the norm in most businesses. Fluorescent lighting uses less electricity than incandescent bulbs, but there are some safety issues involved with using them. Make sure you know the best way to take care of your workers and the environment.

Fluorescent lights cannot be dumped in the trash because they contain mercury and are very toxic. Some places that sell CFLs, such as Wal-Mart and Ace Hardware, will take back any burned-out bulbs for disposal. If you have working bulbs you want to dispose of, you must take them to a hazardous waste disposal site. GE Lighting, a large producer of consumer CFLs, recommends these steps:

*"Like paint, batteries, thermostats, and other hazardous household items, CFLs should be disposed of properly. Do not throw CFLs away in your household garbage if better disposal options exist. To find out what to do first check [www.earth911.org](http://www.earth911.org) (where you can find disposal options by using your zip code) or call 1-877-EARTH911 for local disposal options. Another option is to check directly with your local waste management agency for recycling options and disposal guidelines in your community. Additional information is available at [www.lam-precycle.org](http://www.lam-precycle.org). Finally, IKEA stores take back used CFLs, and other retailers are currently exploring take back programs.*

*"If your local waste management agency offers no other disposal options except your household garbage, place the CFL in a plastic bag and seal it before putting it in the trash. If your waste agency incinerates its garbage, you should search a wider geographic area for proper disposal options. Never send a CFL or other mercury containing product to an incinerator."*

Visit <http://lighterfootstep.com/5->



ways-to-recycle-a-cfl.html for more information on how to recycle CFLs.

The problem of breakage of a CFL is far more serious. According to the California Department of Toxic Substances Control, this is what you need to do should you break a bulb:

- \* Open all doors and windows to ventilate the area for at least 15 minutes.

- \* Turn off your air conditioner/fan/heater so as not to circulate any mercury vapor.

- \* Young children and pregnant women should leave the area during cleanup.

- \* Wear protective equipment, such as a dust mask and gloves, to keep bulb dust and glass from being inhaled or contacting your skin.

- \* Carefully remove the larger pieces and place them in a secure closed container.

- \* Next, begin collecting the smaller pieces and dust. It is recommended that you use two stiff pieces of paper such as index cards or one of the many commercial mercury spill kits available.

- \* Put all material into a sealed container. Pat the area with the sticky side of duct, packing or masking tape. Wipe the area with a damp cloth.

- \* Put all waste and materials used to clean up the bulb in a secure closed container and label it "Universal Waste - broken lamp."

- \* Take the container for recycling to the household hazardous waste facility nearest you.

- \* If the bulb breaks on carpet, the state of Maine's report suggests removing the area of carpet that has been contaminated as a precaution. If this is not feasible, it is recommended that you ventilate the area for several hours as well as during the process of vacuuming because vacuuming can circulate the vapor. If you vacuum, make sure to dispose of the bag along with the broken CFL at your local hazardous waste facility. You should also ventilate the room during the next few times you vacuum the area.



# Preston: Fiscally responsible policies help 'unleash the power of entrepreneurial capitalism'

Continued from page 2

tighter tracking and management of outcomes.

In our most problematic process, we have virtually eliminated our backlogs and improved our response time by almost 90 percent. We are now working to help people with issues once considered outside our purview. The SBA has also been busy on the ground helping small business owners get their lives back through counseling and lending support and helping entrepreneurs access much needed revenue from the government rebuilding efforts taking place.

Of 160,000 applicants with approved loans from the 2005 hurricanes, more than 98% have now either received all or some of their loan money, or have chosen not to proceed with their loans, generally because they secured funds elsewhere. And of the \$7 billion in approved loans requested by borrowers, we have now put \$5 billion in SBA disaster assistance funds to work rebuilding businesses and homes along the Gulf Coast. Approximately \$2 billion in additional commitments are available to be disbursed when the borrowers request them.

## An Environment to Succeed

Whether it is someone trying to rebuild a business or start a new one, the Small Business Administration remains

committed to helping entrepreneurs in the United States succeed.

As we continue our efforts in this regard, it is critical that we have thoughtful, fiscally responsible policies to unleash the power of entrepreneurial capitalism in underserved markets in this

country.

SBA works to drive successful, sustainable, business formation into underserved markets. I believe this is the heart of the President's notion of compassionate conservatism.


We have a new Congress and should expect from it a

continuation of the sound economic policies that have fostered an environment where innovation succeeds and small businesses flourish, fuel our economy, and create more jobs. We do this


Please see SBA, page 7

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San Diego Zoo and Wild Animal Park





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**To receive these discounted admission coupons...  
 call the Association office at  
 (800) 823-4038**

# SBA

Continued from page 6

by:

- Making it easier for small businesses and their employees to obtain affordable, high quality health insurance;
- Keeping taxes low and reforming an unnecessarily complex tax code; and,
- Cutting burdensome government regulation and red tape.

With the President, I believe ownership anchors us in what is important. SBA not only works with start-up businesses, but with small businesses hoping to expand to the next level.

Through training, contracting, and loans we can help entrepreneurs expand locally or even into new communities, or to start new businesses, creating more jobs.

Foreign markets are more open to U.S.

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**We want entrepreneurs to think big because they are the engine driving better jobs for Americans, greater competitiveness in the global marketplace, and transformation for our communities.**

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small business exporters than ever before thanks to fewer trade barriers, improved communication and the ability to ship goods more cheaply.

We want entrepreneurs to think big because they are the engine driving better jobs for Americans, greater competitiveness in the global marketplace, and transformation for our communities.

The men and women of the SBA have the honor and the responsibility of helping that engine reach its potential.

In doing so, the legacy we leave will be in the stories of every American we empower – today, and for many years to come.

## Web Corner

*The Internet is a growing resource for merchant industries. Web Corner is a place for you to share websites that have helped you in your business life. Please send recommendations to [greleht@aol.com](mailto:greleht@aol.com) for inclusion in the column.*



## Save money and the environment on Earth Day and beyond

GreenEnergyChoice, the online marketplace for green energy choices, has identified several ways in which living green can actually save money.

To save money while living a green lifestyle,

GreenEnergyChoice recommends making the following changes:

- \* Change out all incandescent light bulbs to compact fluorescents that last longer, burn cooler and use less electricity. Compact fluorescent light bulbs typically consume 65 to 75 percent less electricity than regular light bulbs and last up to 10 times longer than regular bulbs.

- \* Change to a green energy company. By changing to a green provider one can breathe easy knowing you have stopped environmental pollution and done the equivalent of planting over a 100 trees.

- \* Insulate your house so it can better retain warmth in the winter and coolness during those hot summer days.

- \* Purchase a digital programmable thermostat. Doing so will cut heating and cooling costs by 20 percent and save at least \$100 per year.

GreenEnergyChoice.com is a free online marketplace providing information regarding all of the different clean energy providers in your area, plus rates for each type of service. As a member of the WhiteFence network, GreenEnergyChoice can also be used to connect all the services consumers need for their home. To find out more about GreenEnergyChoice, local services, as well as more tips to living green, please go to <http://www.greenenergychoice.com/>.

“We are committed to helping consumers make choices that help protect the environment,” explains WhiteFence Senior Vice President Bobby Bragg. “Most people still believe that being environmentally friendly is going to cost them more money, but that is not the case as many green friendly choices reduce energy consumption which saves you on your electric bill. Making small changes in your home, such as changing light bulbs, programming your thermostat, or considering clean energy to power your home, can help to save the environment and save money at the same time.”

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8 The California Merchant May, 2008

## Employment

Continued from page 3

*nature and are intended to highlight areas of the subject matter and should not be used as a substitute for specific legal advice. You should seek the aid and advice of a competent attorney and/or accountant instead of relying on the presentation and/or documents. Sam Abdulaziz can be reached at Abdulaziz, Grossbart & Rudman, P.O. Box 15458, North Hollywood, CA 91615-5458; (818) 760-2000, Facsimile (818) 760-3908; or by E-Mail at [info@agrlaw.net](mailto:info@agrlaw.net). On the Internet, visit our Website at [www.agrlaw.net](http://www.agrlaw.net)*

Please visit your association,  
California Merchants Safety Association,  
at its new website.

[www.califmerchants.com](http://www.califmerchants.com)



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