

February 4, 2004

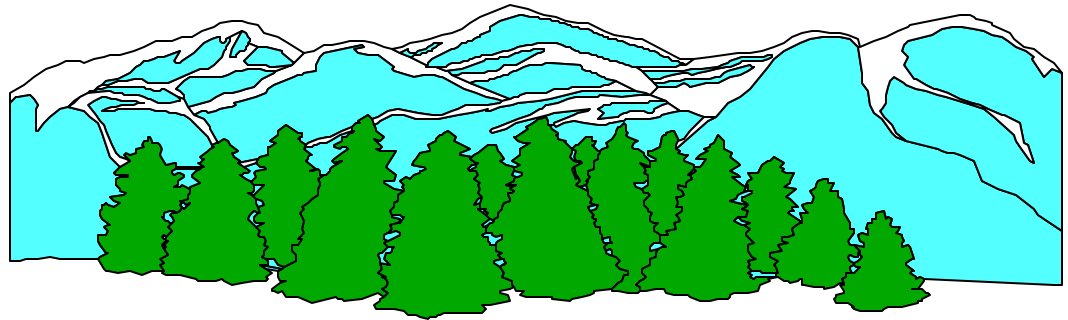
NEW RIVER VALLEY CHAPTER

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AFFILIATE OF



SOCIETY FOR
HUMAN
RESOURCE
MANAGEMENT



Greetings From The President

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In spite of the threatening weather, we had a great turnout at the January meeting. Many thanks to Charlotte Mason, PHR, from The Issues Management Group for her helpful presentation on Coaching for Success. The program gave us some tools to use and share within our organizations to promote and enhance this important management skill.

On January 23, I attended the first quarterly meeting for 2004 of SHRM State Council. These meetings are a great opportunity to hear what other chapters in Virginia are doing. Gaile Aldrich, SPHR, Senior VP Member Services for national SHRM was there and explained the new leadership structure of SHRM, which is focused on being more responsive to the needs of the chapter members. A new magazine, VA HR, will soon have its first issue published. This informative magazine will be distributed to all national SHRM members in the state of Virginia---one more good reason to be a national SHRM member!

Save the dates---the 2004 State SHRM Conference will be held October 6 to 8 at the Richmond Marriott Hotel. Plans are underway for what will be, I'm sure, a terrific conference.

Membership applications for our chapter are still coming in---don't forget to do yours if you haven't already! Congratulations to Steve Cochran, SPHR, winner of the drawing for the Peaks of Otter gift certificate. Steve got his application in before December 31 and it paid off! We'll be making new name tags in February, based on the 2004 application information.

Our program for the February 19th meeting will be a legal update from Victor Cardwell and Tom Winn of Woods, Rogers and Hazlegrove. I look forward to seeing you there!

Best wishes,
Lorraine

Legislative Update

ENFORCEMENT OF WORK RULES MUST BE TIMELY AND CONSISTENT TO BE LEGITIMATE

When an employee sues an employer for unlawful discriminatory discharge, one of the employer's principal defenses is that the employer terminated the employee for a legitimate, non-discriminatory reason. The more serious the misconduct on the part of the employee, the stronger the employer's defense. However, two recent cases illustrate that even where an employee has engaged in serious acts of misconduct, the employer's defense may not hold up if the employer has not been consistent in enforcing its rules.

For example, in *Huske v. Honeywell International, Inc.*, No. 03-2003-KHV (D.C. Kansas, January 14, 2004), the employee, Diane Huske, obtained a Honeywell corporate credit card in the mid 90's. The credit card was a corporate account, but the card statements were sent to the employee's home. Huske began improperly to use the credit card for personal charges but always paid for the charges until 2001. The company became aware that her credit card payments were delinquent in June 2001. Her supervisors, however, did not meet with her until October 2001 to discuss her use of the card. Four days after that meeting, the company terminated the employee for credit card abuse.

However, two weeks after the employee's discharge, Honeywell implemented a reduction in force in which the employee's job would have been eliminated. Had Honeywell eliminated the employee's job during the reduction in force instead of firing her, she would have been eligible for substantial severance benefits. The employee brought suit against Honeywell, claiming that the company had terminated her in violation of Section 510 of the Employee Retirement Income Security Act in order to avoid having to pay her severance benefits.

In ruling that the employee could go to trial on her claims despite her serious misconduct, the court reasoned as follows: Viewing the record in the light most favorable to the plaintiff, it appears that she had used her card for personal purchases – in violation of company policy – since 1998. Honeywell took no action with regard to multiple years of misuse.

Honeywell learned that plaintiff's account was delinquent no later than June 4, 2001. It did not notify [her supervisors] of the delinquency until October 8, 2001, however, and it did not discipline plaintiff until right before the reduction in force.

The court concluded that these delays and Honeywell's discharging the employee less than two weeks before an announced reduction in force raised "an inference of an intentional prohibited activity" in violation of the Act.

Similarly, in *Pineda v. United Parcel Service, Inc.*, 2003 U.S. App. LEXIS 26394 (5th Cir. Dec. 30, 2003), a business manager of United Parcel Service, in the midst of a ten-month medical leave of absence to treat his diabetes, filed a disability discrimination charge against UPS, claiming the company was unlawfully delaying his return to work. After the employee finally returned to work, a human resources manager investigated charges that he had threatened violence against three separate co-workers. At the conclusion of the investigation, the company suspended and ultimately discharged the manager for this misconduct. The manager brought suit, claiming that he was fired in retaliation for filing his discrimination charge and that his discharge for engaging in workplace violence was a pretext for illegal retaliation. A jury found in favor of the employee, and the employee was awarded a verdict of \$202,500.

On appeal, the Fifth Circuit Court of Appeals affirmed the jury verdict, noting specifically evidence that UPS employees "regularly yelled at each other using profanity, that other alleged incidents of verbally abusive behavior were not investigated and that multiple contemporaneous alleged incidents of workplace violence at UPS went unpunished." The court, accordingly, concluded that there was sufficient evidence that the company's reason for terminating the employee was pretextual.

The message from these two cases is clear. Companies and supervisors must vigilantly and uniformly enforce company work rules. Where companies delay responses to employee misconduct or inconsistently enforce codes of conduct, even serious acts of employee misconduct will not protect employers from discrimination claims.

For further information on this subject, please contact Clinton S. Morse, Esq. of Flippin, Densmore, Morse & Jessee, P.C. at 540-510-3054.

NRV SHRM CHAPTER MEMBERSHIP DUES!

It's that time of the year to renew your membership with the NRV SHRM. If you have not paid your membership dues, please mail them as soon as possible to:

Brenda Farmer, Branch Manager
Bright Services
1026 E. Main St.
Pulaski, VA 24301

nrvshrm.com JOB DATA BANK

The chapter now has a new job posting area on the web site. Members may begin placing job postings immediately. The data bank can be found under the "Position Postings" link on the web site. Please use the following guidelines when submitting a posting:

Guidelines to Post Vacancies

1. All postings should be submitted by e-mail via the website to Kathy Janosko, Web Site Administrator (kathy@ali-inc.com)
2. 30 day posting limit unless notified to remove sooner.
3. We accept HR related postings only.
4. NRV-SHRM is not responsible for editing the job posting. We reserve the right to determine appropriateness. NRV-SHRM does not endorse any advertiser/submission.
5. There is no charge to members of NRV-SHRM.

ARTICLES FOR SHRM NEWSLETTER

Articles for each month's newsletter are due on the last Tuesday of the previous month. For the **March** newsletter, the deadline would be **February 29th**. They may be sent to the Chapter's secretary, Teresa Harless, at tharless@blacksburg.gov. Teresa's telephone number is 540-558-0721.

CHAPTER FINANCIAL REPORT

Beginning balance as of December 31, 2003	\$7,939.87
Ending balance as of January 27, 2004	\$8,018.72

Visit nrvshrm.com for a detailed listing of transactions.

BOARD MEETING MINUTES

Minutes – November 4, 2003, 5:00pm, Government Center

PRESENT: Lorraine Wachsmann, Karen Edmonds, Kathy Janosko, Cindy Hale, Teresa Harless, Jim Hungate, Christy Porterfield, Mike Aamodt, Davis Walker, and Carol Dudding

The board agreed that the NRV Chapter meetings will continue to be held at the Hampton Inn , Christiansburg for the 2004 year.

The Chapter donated \$500 to RU SHRM Chapter as a show of appreciation for working on the salary survey.

The meeting mostly centered on setting goals for this year

- Increase the membership by 5%
- Increase certified members by 5%
- Increase student Chapter involvement
- Revise process for invoicing members for annual dues
- Have more of a personal reaching out for member
- Increase the number of social/family events for 2004
- Develop guidelines for the use of scholarship funds
- Hold two round table events
- Continue leadership succession plan

- Initiate a community service project
- Stream line chapter newsletter
- Send membership roster in electronic form

MEETING NOTICES

CHAPTER INDUSTRIAL MEETING

Be sure to mark your calendars to attend the next meeting that will be held on **Tuesday, February 10th** at Stone’s Cafeteria in Christiansburg. This meeting is held on the second Tuesday of every month and meets at 7:00 a.m. Contact Bruce Jennings at (540) 674-7461 or bruce.Jennings@volvo.com for more information on the Industrial Meeting.

BOARD OF DIRECTORS MEETING

The monthly Board meeting will be held on **Tuesday, February 3rd** at the Warm Hearth Kroontje Health Care Center. This meeting will begin at 5:15 p.m. Any Board member who cannot attend should contact Teresa Harless at 558-0721 or e-mail to tharless@blacksburg.gov

2004 Calendar of Events & Annual Meeting Schedule		
DATE	SPEAKER	TOPIC
January 15, 2004	Charlotte Mason, Innovative Management Group	Coaching for Success
February 19, 2004	Victor Cardwell and Tom Winn with Woods, Rogers	Legislative Update
March 18, 2004	TBA	TBA
April 15, 2004	TBA	TBA
May 20, 2004	TBA	TBA
June 17, 2004	TBA	TBA
July 15, 2004	TBA	TBA
August 19, 2004	TBA	TBA
September 16, 2004	TBA	TBA
October 21, 2004	TBA	TBA
November 18, 2004	TBA	TBA
December 2, 2004	Christmas Social	

All NRV-SHRM Breakfast Meetings will be held at the Hampton Inn, Christiansburg at 7:30 a.m. unless otherwise noted

****PLEASE BE SURE TO “REPLY” TO THIS E-MAIL FROM TERESA HARLESS (tharless@blacksburg.gov) BY MONDAY, FEBRUARY 16th IF YOU ARE PLANNING TO ATTEND THE FEBRUARY MEETING. PLEASE INDICATE IF YOU WILL BE BRINGING ANY GUESTS. IT IS IMPORTANT THAT WE GET AN ACCURATE COUNT OF PEOPLE SO THAT FOOD AND HANDOUTS CAN BE PREPARED ACCORDINGLY. THANK YOU ****