

BOOK NOTE



**ENTREPRENEUR MAGAZINE'S
ULTIMATE GUIDE TO
WORKERS' COMPENSATION INSURANCE:
SECRETS OF REDUCING
WORKERS' COMPENSATION COSTS**

by Edward J. Priz
Entrepreneur Media. 2005. 234 pp.

In 2005, insurance expert Edward Priz authored the outstanding text, Entrepreneur Magazine's *Ultimate Guide to Workers' Compensation Insurance* (Entrepreneur Media 2005). Mr. Priz currently advertises an updated 2010 version on his website: <http://www.cutcomp.com/ultimate.htm>. He entitles the revision, *Workers Compensation Insurance: A Field Guide for Employers & Others*. The book can be purchased for \$10.00 in its PDF version.

Employers and carriers frequently express their dismay at the lack of attorney and judge sophistication surrounding the insurance policy and the procedures that underlie the whole system. As a result, the book is required reading, particularly for defense counsel. I know that I have read and annotated the book repeatedly, and am always picking up nuances that I can relate to the cases that I have heard (and hear) litigated before me.

In the Torrey-Greenberg treatise, I have for many years recommended a similar, predecessor book, for similar reasons. That 1991 book, *How to Cut Workers' Compensation Costs: 101 Proven Ways*, by insurance specialist Bill Rogers, has been out of print for some time now. Mr. Priz' amazing manual has been and is a great replacement. It also updates Rogers' book to take into account the many changes in comp and the insurance business since the 1980's and 1990's.

The principal audience for the book is not lawyers but small business owners. It may be, in fact, that the word "lawyer" never appears in the book. The author's focus, instead, is equipping employers with the information they need to avoid insurance problems in the first place, and to deal with their insurers when disputes develop over premium, audit, classification, and experience-rating.

It's worth noting, however, that disputes in these areas often lead to litigation. With the background of this book, lawyers and others can now learn the nuances of the insurance underwriting and administration processes that give rise to such litigation.

Priz explains the necessity of securing insurance in the first place, and he then details how insurance costs can be kept low. His chapters on classification and experience rating, meanwhile, may be the most lucid explanation currently available. The author's particular focus is on insurance company overcharges that result from improper or inaccurate (1) classifications of the insured employer's field of business; and (2) experience rating assignments. A consistent theme of the book is that insurance carriers

are usually “very vigilant about catching those who defraud them,” but they “just [don’t] devote anywhere near the same level of vigilance to making sure that premium overcharges get caught and corrected....” For a list of all the chapters, see <http://www.cutcomp.com/Table%20of%20Contents.pdf>.

Priz’ critical discussion of “fronting” (page 132) is particularly intriguing, and it is representative of the type of nuanced treatment he accords so many issues. He warns readers that fronting, legal though nevertheless “deceptive,” can give rise to problems for employers. As fronting is, in any event, “practiced by many large and reputable companies,” employers must be aware of how it works:

Relatively large companies can find it advantageous to use a captive insurance company – a company owned by the policyholder. So ABC Corp. can set up an insurance company based offshore (or even in some U.S. jurisdictions) to write its insurance. The problem is, states regulate which insurance companies can write workers’ comp and captives almost always don’t meet those requirements.

[B]ut some creative insurance folks came up with a solution to that problem: fronting. If you can get a large and well-known insurance company to write your workers’ comp policy, but then reinsure all your claims with your captive, you get the best of both worlds. The claims are actually being paid by your captive and most of the premiums are going into the captive. (The fronting insurer keeps a small cut as a “fronting fee”).

[B]ut to the outside world, your workers’ comp isn’t written by ABC Corp. Captive but instead by Giant Well-Known Insurance, Inc.

The problems? Priz remarks that, technically, if the captive cannot pay all claims, “the fronting insurance company would be on the hook for the claims.” (Lawyers, of course, know that a lawsuit would likely result from such a breakdown.) In addition, employers utilizing this procedure, or contracting with service providers (or PEO’s) will likely have certificates of insurance that record that the fronting company is the insurer, but this is deceptive, because “the actual responsibility for handling claims rests instead with some offshore captive insurance company located in the Cayman Islands. And you can’t tell the difference.” He concludes, “Will these elaborate arrangements ever create problems for the insurance system? For your company? No one really knows....”

So buy a copy of Mr. Priz’ book and take in a critical explanation and account of fronting – and a myriad of other insurance customs, practices, and procedures. Like a new Beaujolais, breathe it in, drink it in, get lost in it, and don’t ever let some risk manager catch you unaware on the topic of insurance coverage.