

Who's On Your Client's Payroll?

A NEWLY WIDOWED FORBES 400 BILLIONAIRE recently was on the verge of hiring a nanny for his two children. Though he had selected a candidate from a well-known domestic employment agency and personally interviewed her at his residence, he was overwhelmed with the prospect of bringing a new unknown person into his household.

Under stress, he sought assistance from Teresa Leigh, whose firm Teresa Leigh Household & Property Management LLC in Raleigh, N.C. (www.teresaleigh.com), specializes in searches of domestic staff to prevent risk for the exceptionally affluent community across the U.S. The firm works closely with high-net-worth clients of the Chubb Group of Insurance Companies.

In the course of a background investigation, Leigh's firm was forwarded paperwork by the agency the woman had used, interviewed the nanny candidate and discovered her identification and photo IDs did not match. In fact, the Social Security number the person had given the agency had been used by three other individuals. Further, she had been arrested within the last six months for a DWI. A bench warrant had been issued after she had failed to appear in court.

Wait. It gets worse. She had also declared bankruptcy within the last year, and her brother was serving time for unlawful acts with a minor and possessing drugs, among other serious offenses.

"Was she a pleasant and kind person? Did she have good nanny skills? Did she have good job references? Was she willing and available for work today? Yes,"



Nannies and other domestic workers raise security, liability issues.

By Bruce W. Fraser

says Leigh, "but obviously she was not the person for the job."

The hiring of domestic employees, such as personal assistants, house managers, butlers, housekeepers and nannies, is a high-risk business, Leigh maintains, but too often affluent individuals take the hiring and vetting process for granted.

"It can be difficult to educate the affluent community about the importance of protecting their identity in the process of hiring domestic staff. They often do not believe they come into contact with psychopaths or known criminals," she says. "How would a CEO or CFO be aware they are sitting across the table during an interview with a butler or nanny that may have a criminal record?"

To be sure, you won't find criminal offenses in the backgrounds of most domestic workers. Still, there is risk involved regarding your wealthy clients' personal safety and their assets.

Some Helpful Resources

- <http://parents.berkeley.edu/recommend/home/daylabor.html>
- http://www.insurance.com/quotes/Article.aspx/Legal_Liability_for_Landscaping_Help/artid/175
- <http://parents.berkeley.edu/recommend/insurance/workcomp.html>
- <http://www.householdemploymenttaxes.com/definition3.shtml>
- <http://www.householdemploymenttaxes.com/>

Among the concerns: Do your clients have adequate protection against property damage and liability? What happens if their domestic workers get hurt on the job? Are they properly covered? What if they turn out to be illegal immigrants? What is the advisor's role in all this?

Covering The Nanny Gap

Due to certain dynamics in the P&C industry, as well as a reluctance by many financial planners and wealth managers to stray too deeply into the P&C realm, chances are high many clients lack adequate protection from common and uncommon hazards involving domestic employees, according to P&C experts and other industry observers.

The reason is that most advisors predominantly are concerned with their areas of expertise, says Jim Fiske, vice president of personal insurance for Chubb. "There is a natural progression for advisors to have either a life insurance background or a background in securities. They earn their livings based on helping clients manage their investable assets. Wealth preservation, however, is a key component of the overall wealth process. Generally speaking, advisors are not experts in property and casualty, and that results in a significant hole in the offerings they make to their clients."

To bridge the gap, Fiske recommends advisors work with a qualified expert in personal risk management licensed in their jurisdiction. "As the wealth of their clients increases it becomes a greater risk issue," he says.

The Advisor As Risk Manager

"The risk is out there," says Kevin Gahagan, of Mosaic Financial Partners Inc., in San Francisco, Calif., who has seen the effects of lack of attention to P&C coverage, and considers the nature of his

work as a planner, at least in part, to be a risk manager. "We are very clear with our clients that this is not our field of expertise. We will always advise clients to review our recommendations on insurance issues with their agent. We haven't met with a client in the last 10 years where we have not recommended changes in their P&C coverage," says Gahagan.

Regarding clients with domestic workers, there are three fundamental areas of possible liability: employment practices, personal injury attributable to employment and personal injury due to negligence, Gahagan explains.

Without additional riders, employment practices are not covered under a typical homeowner policy, he points out. With respect to personal injury, if the injury occurs in the normal course of employment, a standard homeowner's policy may limit the remedies available to the injured party. "Claims for lost wages will not typically be paid under a homeowner's liability coverage," Gahagan says, although worker's compensation insurance purchased by the employer may cover such claims. Injuries that might result from employment are back injuries, repetitive stress injuries and others that may occur as a result of performing one's duties. Personal injuries attributable to negligence might occur when a person falls after a faulty stair rail breaks or after a deck gives way. In those instances, the homeowner's general liability coverage would likely apply, notes Gahagan.

Here are some red flags, Fiske says, that an advisor should watch for on behalf of wealthy clients with domestic workers:

1. Do the workers have access to private passenger vehicles? If so, do they drive them?

2. Do domestic employees have alarm codes and keys to the house?
3. Are your clients' computers password protected?
4. Has a background investigation been done on workers to check their driving records and possible criminal activity, not only at the hiring stage but periodically throughout their employment?

Advisors can advise clients to reduce their risk by having a job description, using an employment application, and making sure their employment practices comply with federal requirements, such as withholding of payroll taxes and proof of citizenship. The mistake most advisors make is focusing on the net worth of an individual rather than on the risks he or she faces and kind of insurance coverage needed, says Fiske.

"The standard industry policy does not provide liability on a worldwide basis," he adds. "So if your client with a nanny or personal assistant travels with them, a mass-market carrier will not cover them for liability. The industry standard also doesn't cover liability for personal injury, which generally distills down to liable and slander claims. That's important because if the domestic prints or says something that is attributed to you and judgment is found against you, it is libelous."

How much does such insurance cost? Personal liability is relatively inexpensive, says Fiske. For example, a \$10 million liability policy for a family with a couple of homes and cars costs approximately \$1,750 annually.

Mary Lacey Gibson, a planner in San Juan Batista, Calif., sometimes has clients who employ occasional labor or someone like a nanny on a regular basis. "Regardless of legal status, for all hires that do not come through an employment agency, I recommend that they become familiar with requirements," she says. "Clients regularly hire day laborers, engage trash haulers, painters, handymen and house cleaners. Points of discussion include the definition of an employee and independent contractor. What happens if they get hurt or report an unemployment claim, and the fact they are letting a stranger into their homes.

“They need to know the rules for employees, check with their homeowner’s insurance company for what is covered, add necessary riders to homeowners insurance and add worker’s compensation insurance. To keep ahead of potential headaches and not run afoul of the legal system, clients either need to use employment agencies or build a team which includes their insurance agent, tax professional, local state employment agency and possibly an attorney specializing in labor law.”

Tom Scanlon, an advisor in Manchester, Conn., says one client became a guardian of three minor young children and decided to employ a nanny. The client purchased worker’s compensation insurance, since it’s required in Connecticut if you have an employee. Scanlon also suggested the client purchase an umbrella liability policy with auto coverage because the nanny would be driving the family car. The client complied and purchased a \$5 million umbrella policy.

In some cases costs can escalate, especially if clients have domestic staff and no coverage. One of Chubb’s offices recently settled a dog-bite claim for \$2.5 million.

According to Fiske, the reason it settled for such a high amount is that the dog had bitten the domestic worker previously, and the client had asked the employee not to tell the hospital it was the family dog. The dog bit the employee a second time, however, and did serious injury. The employee sued the employer, and Chubb paid the \$2.5 million.

Sometimes it takes a securities firm to lower the risks in hiring domestic employees. Paul Viollis Sr., CEO of Risk Control Strategies Inc. in New York City (www.riskcontrolstrategies.com), a consulting firm that serves as a security advisor to the affluent community, says approximately 50% of the resumes his firm examines contain either exaggerated or false information, and typically one out of three background investigations turn up information that requires either additional investigation or consideration for disqualification.

“You have to investigate each venue of the subject’s adult life on the ground as opposed to online,” says Viollis. “Online searches are valuable, but they’re just a portion of the process.”

Costs typically range from \$500 to over \$2,000, depending on where the person has lived and how many places of employment they’ve had, says Viollis. For example, if they come from Canada as opposed to the Eastern Bloc, it’s less expensive because the information is more readily available.

What if your client’s nanny turns out to be an illegal alien? An employer can be subject to potential legal penalties, by virtue of the Emigration Reform & Control Act of 1986, which criminalizes the act of knowingly hiring unauthorized aliens. Penalties can range from civil and/or criminal fines up to and including imprisonment.

Why get involved? “You can help your clients preserve the wealth that they’ve built up, the loss of which can be catastrophic,” says Scanlon. “It’s also an opportunity to provide a value-added service, which will help enhance and deepen your relationship.” **FA**

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