

In This Issue

Working Together For Change 1
Public Relations Update 4
Legislative Update 6
State Government Relations Update 9
APAC Chapter Annual Meeting 10
Dish Network Decision 11
Validating Identity in the Digital Age 14
How Do You Say “Yes”? 15
Get to Know Your NAPBS Board 16
Learn About the Mid-Year Conference 19
NAPBS Accredited Companies 23
Mission, Comments & Article Submission 24

Working Together For Change

By Angela Preston, NAPBS Chair-Elect

Time doesn’t slow down. The passing of another year is just a blip on the calendar.

If you haven’t had time to pause and reflect on 2017, I would venture that you’re not alone. Let me break it down for you. In 2017, we ushered in the 45th President of the United States with “fake news,” hurricanes, wildfires, a solar eclipse, #MeToo, Bitcoin, Netflix, Charlottesville, Las Vegas, Sutherland Springs, and Harry and Meghan. We said RIP Tom Petty and Mary Tyler Moore. Beyoncé had twins and millennials now outnumber baby boomers. I found a few more gray hairs. Those are just a few of the notable highs and lows of a very volatile year.

Whether you see 2017 as a good year

or a bad year depends on your perspective. The adversity we faced across the globe was at times alarming and seemingly relentless. The way people responded to new challenges was both touching and inspiring. The one thing that stands out for me is this: we need each other. The outcome for 2018 depends on our ability to work together in the world.

The fact that the NAPBS exists is proof of this concept. Who would have ever thought that a bunch of fierce competitors could gather together in a civilized forum, putting our competing interests aside for the greater good of the profession? Many were skeptical, but as an association we collaborate monthly, weekly—even daily at times—to achieve common goals and advance the interests of the profession. We fight for the industry that we created, as a necessary service that benefits the common good.

As we look at the challenges that plague the world, our work makes a difference. Professional screening helps to combat workplace harassment, provides safer work places and continues to innovate and provide smarter tools for businesses and organizations across the globe. 2018 is the year that we will expand and embrace a global vision, making it an organizational reality. My wish for NAPBS in 2018 is that we will be open to

Continued on page 3

Many were skeptical, but as an association we collaborate monthly, weekly—even daily at times—to achieve common goals and advance the interests of the profession.

- NAPBS Committees, Councils & Advisory Groups
- Advocacy Committee
- Background Screening Credentialing Council
- Best Practices Committee
- Communications Committee
- Educational Resources Committee
- End-User Advisory Group
- Ethics Advisory Group
- Finance Committee
- Global Advisory Council
- Governance Advisory Group
- Government Relations Committee
- Leadership Development Committee
- Provider Advisory Group

Owens OnLine®

Credit Reports and Background Checks in over 250 Countries and Territories

WORLDWIDE SCREENING

Compliant
Accurate
Secure
Easy

www.owens.com

2018 LEADERSHIP

Officers

Scott Hall
Chair
FirstPoint Background
Screening Resources

Angela Preston
Chair-Elect
Sterling Talent Solutions

Bon Idziak
Secretary/Treasurer
Accurate Background Inc.

Dawn Standerwick
Immediate Past Chair
Employment Screening
Resources (ESR)

Regular Member Directors

Brittany Bollinger
MBI Worldwide

Catherine Leung
HireRight Inc.

Heidi Seaton
Orange Tree Employment
Screening

Michelle Leblond
PlusOne Solutions Inc.

Curt Schwall
Employment Background
Investigations Inc. (EBI)

Kelly Uebel
Asurint

Associate Member Directors

Scott Maloney
Omni Data Retrieval

Dean Carras
Innovative Enterprises Inc.

Working Together For Change *Continued from page 1*

As we look at the challenges that plague the world, our work makes a difference.

the changes ahead and that we will strive to be better informed and more engaged in our association.

If you are looking for ways to work together for change, NAPBS has a variety of opportunities for you to contribute to our collective voice. [Volunteer](#) to serve on a committee or a short term task force to be a part of how we work together to get things done within NAPBS and for our industry. You can answer questions about your screening experiences to help fellow members in the [NAPBS Community](#) forum. Carve out time in your schedule for important networking and education at the 2018 Mid-Year [Legislative & Regulatory Conference](#) in Washington, D.C. Immediately after the conference, you can

support the profession through hands-on, practical ways by participating in the [2018 NAPBS Advocacy Day](#) on Capitol Hill. There will be many more opportunities throughout the year for you to [advocate for NAPBS](#) and the profession. Let 2018 be the year where you make lasting connections and leave your mark at NAPBS.

The NAPBS Board of Directors is here to serve you and we welcome feedback on how we can help you in your professional journey. I urge each of you to reach out to me or my fellow board members with ideas, criticisms and inspiration. In the end,



together we can make it a better year for all. ▲

**By Angela Preston,
NAPBS Chair-Elect**

JOURNAL Advertising

For information, email NAPBS at info@napbs.com or click [here](#) to download the 2018 NAPBS Advertising Contracts.



Digital Communications in 2018

Public Relations Update



By now, most businesses that communicate with the public recognize the need for some form of digital communications presence. Whether it is limited to one platform like a website or LinkedIn or an integrated presence on Twitter, Facebook and others, there are many benefits to communicating to your target audiences through digital media. In 2018, there are a number of new tools a company can consider as well as a few pitfalls to avoid as more customers, employees and policymakers are engaging online.

While certain topics may not be of interest to the local newspaper in the form of a guest column or letter to the editor, a significant number of professionals turn to LinkedIn for perspective on a myriad of industry specific issues.

Generated Company LinkedIn Content: Don't underestimate the expertise that resides within the four walls (or more) of your company. While certain topics may not be of interest to the local newspaper in the form of a guest column or letter to the editor, a significant number of professionals turn to LinkedIn for perspective on a myriad of industry specific issues. In fact, publishing or sharing to LinkedIn has the potential to reach 20 percent of your network. That's a high percentage compared to Facebook and Twitter, whose organic reach per post averages at 2.6 percent and 10 percent, respectively. If there is a pressing topic within the industry, from laws or regulations being considered to misperceptions being reported in the media, take the time to author a brief (300-500 words) article framing the issue and establishing the facts. Without giving up your company's "secret sauce," include some guidance for those who might be seeking more information. If your article is in response to one published in the media, feel free to share it with relevant reporters or other interested third parties. Monitor the discussion so you can answer questions or correct misstatements by others.

Live Streaming: Instagram Stories and Facebook Live are rapidly gaining popularity, and with 78 percent of online audiences are already watching video on Facebook Live, your audience is at the ready. These services aren't just for peer-to-peer communication: businesses of all kinds are seeing tremendous

success from utilizing live video. Implementing Facebook Live and Instagram Stories gives your target audiences real-time content that is completely original, keeping them engaged and in the loop while giving your brand a more tangible personality. For many brands, live video is often replacing other forms of social media, and for good reason. According to [Livestream](#), 82 percent of audiences would prefer a live video over social posts from a brand.

Rebroadcast Earned Media: As we've talked about in this space before, look for opportunities to engage with your local media on important issues impacting the industry. If you are successful in getting a guest column or letter to the editor published, or if your quote is included in an article, don't let it stop there. News outlets are companies looking for digital exposure too. Make sure you push the news piece out on your own social networks, post on your company's website or even consider sending an email to your list and local reporters with your quote, some brief context and key excerpts from the article or column.

Know Which Platform You're Using: There are numerous examples, some of them humorous, where a well-known company sends out a seemingly unrelated, odd or even negative tweet. By the time the corporate investigation is finished, the culprit is often an employee thinking they are posting from their personal account when, in fact, they're still on the company's. Not everyone has a separate digital media division to make such mistakes, but plenty of us have social media access to both our personal as well as company accounts. When you decide to air your grievances about someone's driving or a certain political figure, make sure you're on the right account.

Don't disseminate falsities: "Fake news" has become part of our everyday vernacular. While the term may be overblown, the trend in posting unverified information on social media isn't. Before hitting the "share," "retweet" or "like" button, make sure what you're amplifying on your company's behalf is true. In an industry where policymakers and customers are looking for reliable voices, pushing things later found to be untrue only hurts credibility. If you're looking for content, the NAPBS weekly newsletter regularly includes news stories, industry events and other topics worth discussing – and they have the added benefit of being true.

The pace at which online media moves means there are sure to be even more developments in 2018. If your company chooses to engage digitally, keeping these simple recommendations in mind will enhance your ability to communicate and hopefully prevent some headaches. ▲

2018-19

See
My Company
Ad on Page 'X'



The Background Screening Resource Guide



Showcase Your Company in the Industry's Leading Publication which will be Distributed at the SHRM Annual Conference and Directly to 50,000 HR Managers.

Mention this Ad When you Contact Barry at 1-949-770—5264 or WBNixon@PreemploymentDirectory.com to get a discount on your ad.

PreemploymentDirectory.com

Legislative Update

Evaluating Pay Equality: Steps Employers Should Consider to Avoid Running Afoul of Equal Pay Laws

While harassment allegations against an ever-growing number of male power figures dominate the news, another equal employment opportunity issue simmers steadily below the surface: the pursuit of pay equity for women and minorities. In the past few years, several states have passed pay equity laws affording employees greater protections than those historically provided by federal law, and equal pay has become a focal point in politics and board rooms. Managers across industries can expect increasing scrutiny of these issues in the months and years ahead.

This article outlines key federal and state equal pay laws, as well as steps managers should take in planning and conducting an internal pay analysis. Firms should consider taking the initiative to identify and correct any unwarranted pay disparities, to avoid facing an equal pay issue.

Key Federal Laws Requiring Equal Pay

Most claims alleging unlawful pay disparity under federal law are brought pursuant to Title VII of the Civil Rights Act of 1964 (“Title VII”) or the Equal Pay Act (“EPA”).ⁱ

Title VII

Title VII broadly prohibits discrimination in compensation based on an individual’s race, color, religion, sex or national origin.ⁱⁱ In a typical Title VII pay discrimination case, a plaintiff claims that he or she received lower wages than “similarly situated” comparators outside of the plaintiff’s protected class.ⁱⁱⁱ

Plaintiffs often use statistics that compare the average pay of similarly situated employees inside and outside of the protected class to prove their cases. Whether comparators are “similarly situated,” however, is often a hotly contested issue. Job titles are not determinative;^{iv} rather, similarity depends on whether “the jobs generally involve similar tasks, require similar skill, effort, and responsibility, [have similar] working conditions, and are similarly complex or difficult.”^v

Even where two employees perform similar work, pay differences can be lawful where they are supported by neutral factors, such as the employees’ respective education, experience, tenure and job performance. If a statistically significant pay difference exists even after accounting for potential neutral explanations, a jury may infer that the difference is due to intentional discrimination.^{vi}

In addition to asserting claims of intentional discrimination, employees can assert that a firm’s compensation practices have a “disparate impact” on a protected class. Disparate impact claims



do not require a showing of discriminatory intent; rather, such discrimination occurs when (1) a facially neutral compensation policy significantly disadvantages a protected group; and (2) the employer cannot demonstrate that the policy is “job related and consistent with business necessity.”^{vii}

Even where two employees perform similar work, pay differences can be lawful where they are supported by neutral factors, such as the employees’ respective education, experience, tenure and job performance.

Equal Pay Act

Unlike Title VII, which broadly prohibits compensation discrimination against all protected categories, the EPA only bars discrimination based on gender. Under the EPA, firms are prohibited from paying employees of one sex a lesser rate for “equal work” in positions requiring “equal skill, effort, and responsibility, and which are performed under similar working conditions.”^{viii}

A plaintiff pursuing a claim under the EPA can challenge disparities within the same “establishment” – generally, a distinct physical location – rather than disparities across an employer’s entire business.^{viii} A plaintiff need not show that the employer acted with discriminatory intent; rather, a showing that the employer paid workers of one gender more than workers of the other gender for equal work will result in liability.^{ix} In addition, unlike Title VII, which requires pay differences to be “statistically significant” to raise an inference of discrimination, the EPA can be violated by any pay difference, no matter how small.

Affirmative Defense Available to Employers

Under both Title VII and the EPA, a company can establish an affirmative defense by showing that a particular pay difference resulted from: (1) a seniority system; (2) a merit system; (3) a system that measures earnings by quantity or quality of production; or (4) a differential based on “any factor other than sex.”^x The burden is on the defendant firm to demonstrate that the proffered reasons did, in fact, cause the disparity.^{xi}

Continued on page 7

Legislative Update *Continued from page 6*

Key State Equal Pay Laws

In addition to the above federal laws, many states have passed laws prohibiting discrimination in compensation. Laws in various jurisdictions – including New York, Connecticut, California, Maryland and (as of July 1, 2018) Massachusetts – provide greater protections than their federal counterparts.

For example, a key affirmative defense to equal pay law claims – i.e., that the pay disparity at issue was caused by a factor other than sex – is much narrower (or even non-existent) under various state laws. To establish this defense in New York, Connecticut, California and Maryland, for example, an employer must demonstrate that the disparity was caused by a “bona fide” factor other than sex, and that such factor (1) is job-related; (2) was not “derived from a sex-based differential” in compensation; and (3) is consistent with “business necessity.”^{xiii} Further, even if a defendant satisfies this heightened showing, an employee can override the defense in New York, Connecticut or California by demonstrating that there is an alternative employment practice that would serve the same business purpose without creating the compensation differential.^{xiv}

These foregoing state laws also expand equal pay law protections in other ways. In Maryland, for example, the applicable statute prohibits discrimination against an employee based not only on sex, but on the employee’s gender identity.^{xv} In California, a pay equity claim can be based not only on comparators in the plaintiff’s work establishment, but on company employees in other locations as well.^{xvi} In New York, a successful plaintiff can recover liquidated damages of up to 300 percent of the pay disparity, among other available remedies.^{xvii}

In addition to these substantive protections, state laws also contain procedural protections designed to help redress existing pay disparities. For example, each of the above-noted states now bars employer policies that would prohibit employees from sharing or communicating about their respective compensation, so that employees can learn if they are being underpaid compared to their colleagues.

Several states have also enacted laws prohibiting employers from inquiring about or using a candidate’s pay history as part of the hiring or onboarding process. A New York City law with such a prohibition went into effect on October 31, 2017,^{xix} and similar laws will take hold in California and Massachusetts in 2018.^{xx}

These new measures are likely to have an inflationary impact on employee compensation. Candidates will be free to seek whatever compensation they choose, and an employer will be limited in its ability to peg compensation to a candidate’s current level of pay.



What Now?

In the coming months, managers should anticipate increased focus on pay equity issues from employees, governmental agencies and the plaintiffs’ bar. Companies should consider taking proactive steps to minimize risk, such as utilizing the year-end compensation cycle to conduct an internal pay analysis to identify and address any latent inequalities. Employers should use extreme care in planning and conducting these reviews, however.

Role of Legal Counsel

First and foremost, any internal pay analysis should be led by an employer’s legal counsel in a manner that preserves the attorney-client privilege. Company counsel will want to create a paper trail clearly framing the purpose of the review – i.e., to allow counsel to evaluate legal risk and provide advice to his or her client based on applicable law. A failure to properly characterize the review in this fashion may impair the employer’s ability to protect its results from disclosure later on.

To the extent an employer engages an outside consultant to assist with the review – as is often the case when statistical analyses are conducted at larger workforces – the consulting relationship should be structured so as to maximize the likelihood that the privilege will apply. This can be done through a Kovel arrangement, which extends attorney-client privilege to third parties assisting attorneys in representing clients under certain circumstances.

Employee Identification

Second, companies should identify the employees to be included in the review and the positions to be grouped together for purposes of the analysis. In general, companies should look at pay disparities between employees who are similarly situated with respect to the skills required for the position, the tasks performed on a day-to-day basis and the employees’ levels of responsibility.

Data-Gathering

Third, companies must gather all of the necessary data to conduct the review. Compensation data (including base salaries, bonuses, carried interest, benefits and any other form of remuneration) is essential, but the review should also consider information that may provide non-discriminatory explanations for any identified pay differences, such as employees’ relative prior experience, tenure, education, employment agreements, performance metrics and reviews.

For companies that base compensation decisions on a mixture of objective and subjective criteria, or purely on subjective factors, gathering the relevant data points can be difficult. Even written performance reviews have come under attack from the plaintiffs’

Continued on page 8

Legislative Update *Continued from page 7*

bar in recent years, including by resort to studies regarding “inherent biases” and their potential impact on performance evaluations.^{xxi} An employer trying to insulate its pay practices from legal challenge should look not only at the relevant metrics, but must be able to articulate, and should consider documenting, legitimate business justifications to support each metric.

Decisions About Potential Adjustments

Fourth, if review of a company’s pay practices reveals compensation disparities that cannot be explained by neutral, non-discriminatory factors, the employer will face a number of strategic decisions regarding potential pay adjustments.

While the goal (i.e., eliminating pay differences between similarly situated employees) is simple in theory, achieving it can be far more difficult in practice. The challenge is to try to obtain mathematical parity while also accounting for relevant business objectives and avoiding an unintentional adverse impact on other protected classes.

Furthermore, one of the simplest solutions – reducing certain employees’ pay to achieve parity – is prohibited by law.^{xxii}

Implementation of Adjustments

Finally, a company will need to decide how and when to go about making any appropriate pay adjustments. The goal is to correct any outliers without generating claims for back pay in the process. Under both federal and state law, the statute of limitations for a pay discrimination claim may date back three years or more, meaning that an aggrieved employee could seek several years of back pay. Particularly against this backdrop, companies will want to use care in making, communicating and implementing compensation decisions. ▲



Richard J. Rabin is a partner at Akin Gump and head of the New York office’s labor and employment group. He advises and represents hedge funds, private equity firms, investment banks and other financial services firms on a full range of labor and

employment matters, including disputes with executives and senior employees and claims of discrimination, harassment and retaliation. Rabin advises clients regarding employment-related best practices, and helps them implement appropriately protective policies. He negotiates employment, severance and other agreements and litigates issues that arise in connection with the recruitment, hiring and separation of firm personnel, including matters involving restrictive covenants. Rabin also represents executives, directors, portfolio managers and other senior personnel in connection with employment and partnership-related disputes.

Esther G. Lander is a partner in the Washington, D.C., office of Akin Gump. Her practice focuses on complex employment discrimination suits, including claims of disparate impact and testing discrimination; Title VII and other enforcement actions involving government entities such as the EEOC, the DOJ, the DOL and state and local governments; and the Uniformed Services Employment and Reemployment Rights Act. She also advises clients on class-action wage and hour issues and provides counsel regarding all areas of employment law.

Anastasia M. Kerdock is counsel in the labor and employment section of Akin Gump’s New York office. She defends and counsels clients on a wide range of labor and employment matters arising under federal, state and local law. She advises clients on diverse issues arising in connection with the recruitment, hiring, performance management and separation of employees, such as the negotiation of employment and severance agreements and the enforcement of restrictive covenants. She also helps clients avoid litigation and other disputes by counseling them on the implementation of policies reflecting best practices.

ⁱ The Age Discrimination in Employment Act and the Americans With Disabilities Act also prohibit compensation discrimination on the basis of age or disability, respectively. See 29 U.S.C. § 623; 42 U.S.C. § 12112.

ⁱⁱ See 42 U.S.C. § 2000e-2(a).

ⁱⁱⁱ See, e.g., *Dimino v. Georgia Dep’t of Administrative Services*, 631 Fed. Appx. 745, 748-749 (11th Cir. 2015). E.E.O.C. Compliance Manual § 10-III(A)(1)(b) (2000).

^{iv} E.E.O.C. Compliance Manual § 10-III(A)(1)(b) (2000).

^v *Id.*

^{vi} E.E.O.C. Compliance Manual § 10-III(B) (2000).

^{vii} 29 U.S.C. § 206(d)(1).

^{viii} See 29 U.S.C. § 206(d)(1); 29 C.F.R. § 1620.9(a).

^{ix} See *Mickelson v. New York Life Ins. Co.*, 460 F.3d 1304, 1311 (10th Cir. 2006); *Ryduchowski v. the Port Authority of N.Y. and N.J.*, 203 F.3d 135, 142 (2d Cir. 2000), cert. denied, 530 U.S. 1276 (2000).

^x See 29 U.S.C. § 206(d)(1); *Mickelson v. New York Life Ins. Co.*, 460 F.3d 1304, 1311 (10th Cir. 2006).

^{xi} See *Mickelson v. New York Life Ins. Co.*, 460 F.3d 1304, 1312 (10th Cir. 2006).

^{xii} See Mass. Bill. S. 2119 § 2(b) (2016).

^{xiii} [See N.Y. Lab. Law § 194(1)(d); Conn. Gen. Stat. Ann. § 31-75(b); Cal. Lab. Code §§ 1197.5(a)(1)(D), (b)(1)(D); Ann. Code Md. § 3-304(c)(7).

^{xiv} See N.Y. Lab. Law § 194(1)(d); Conn. Gen. Stat. Ann. § 31-75(b); Cal. Lab. Code §§ 1197.5(a)(1)(D), (b)(1)(D).

^{xv} See Ann. Code Md. § 3-304(b).

^{xvi} See Cal. Lab. Code §§ 1197.5(a).

^{xvii} See N.Y. Lab. Law § 198.1-a.

^{xviii} See N.Y. Lab. Law § 194(4)(a); Conn. Public Act No. 15-196(b)(1); Cal. Lab. Code §§ 1197.5(j)(1), (b)(1)(D); Mass. Bill. S. 2119 § 2(c) (1); Ann. Code Md. § 3-304.1.

^{xix} See, e.g., N.Y.C. Council Int. No. 1253-A (2016).

^{xx} Mass. Bill. S. 2119 § 2(c) (2016); Cal. A.B. 168 (2017).

^{xxi} See, e.g., Paola Cecchi-Dimeglio, *How Gender Bias Corrupts Performance Reviews, and What to Do About It*, Harvard Business Review, April 12, 2017, available at <https://hbr.org/2017/04/how-gender-bias-corrupts-performance-reviews-and-what-to-do-about-it>; Kieran Snyder, *The abrasiveness trap: High-achieving men and women are described differently in reviews*, Fortune, August 26, 2014, available at <http://fortune.com/2014/08/26/performance-review-gender-bias>; *Ryduchowski v. the Port Authority of N.Y. and N.J.*, 203 F.3d 135, 143-145 (2d Cir. 2000) (upholding jury verdict that employer failed to establish valid merit system defense under the EPA where the evidence supported a finding that the defendant’s “detailed evaluation procedures were not systematically applied to all employees because of the gender prejudice of [plaintiff’s] superiors. . . .”), cert. denied 530 U.S. 1276 (2000). See, e.g., 29 C.F.R. §§ 1620.12; 1620.25.

State Government Relations Update And the Race Is On!

By Brent Smoyer, State Government Relations and Grassroots Director



Brent Smoyer

With the completion of the busyness of the holidays comes an even busier season to state level government relations professionals: the opening of 46 legislative sessions across the nation for 2018 (Montana, North Dakota, Nevada, and Texas only meet every odd-numbered year). As of January 12, only 13 legislatures have yet to kick off their 2018 sessions and, barring special sessions that are outside their normal schedules, most legislatures will adjourn sine die (Latin for: “without a day”) by the end of May. Sine die basically means the body has completed its business for that session and will not be returning until a new session begins.

This is where the legislative “race” comes into play, as legislators in many states must move quickly to try and get their pet projects across the finish line before the legislative timer runs out and they must start all over.

When legislatures adjourn sine die in an even numbered year, it wipes the slate clean when it comes to legislation that has not been enacted. All bills that failed to move from committee, or were never voted upon are now “dead,” and will remain so unless some legislator reintroduces the bill in the next session. This is where the legislative “race” comes into play, as legislators in many states must move quickly to try and get their pet projects across the finish line before the legislative timer runs out and they must start all over. Even states, like New York, North Carolina, Michigan, Illinois, and a few others that carry on through the entire calendar year, and can move at a more leisurely pace, scramble in the opening weeks of January to get legislation introduced before they reach their states’ mandated bill introduction deadline.

After bill introduction, the process follows what can best be described as the “School House Rock” formula in the song “I’m Just a Bill,” as the legislative process on the state level greatly mirrors the process on the federal level (only everyone seems to get along a little better). This is our chance as an association to have input and try to shape legislation to suit our wants and needs ... or try to block legislation that can’t be good for us no matter how much you tinker with the language.

As of January 12, NAPBS is following 328 bills across the nation in 46 states and the District of Columbia, with more to come until about February, when the majority of states reach their bill introduction deadline. While that number (and the

idea that the number will grow) seems intimidating on its face, it can be managed with diligence, vigilance and an understanding of what bills have genuine opportunity to move forward and which end up serving as “window dressing.”

For example, approximately 200 of the bills currently on our list were introduced last year, but saw no debate on the legislative floor, or even a committee hearing. This indicates that the odds of their making significant progress is small - not impossible, but certainly small. From there we continue to rank the bills and issues based on the relative influence of the lawmaker who introduced it, and of course, the political climate in the nation and state at the time. It’s this analysis, combined with the involvement of NAPBS leadership and members across the nation, that allows us to act quickly regarding legislation that affects our industry.

Currently, the political climate across America makes for a peculiar but somewhat predictable feel in most state capitols. State legislatures reacting to federal actions have proven to be a partial distraction from many of the issues states might normally be dealing with. Add newsworthy national events like data breaches and you can feel a change in the wind regarding legislative priorities. In terms of our industry, it’s clear that the focus nationally has gone to data security. Legislation regulating credit freeze fees, the timing and methods of data breach notifications, and further regulating data providers and their security processes has been plentiful. This is in addition to new salary inquiry provisions meant to address the issue of equal pay. The “usual suspect” issues like ban the box, and transportation network company regulation are present as always, but there is a clear shift of focus for this session to data.

As the session progresses the political landscape will continually shift, events will pull focus to other issues and legislation will slip by the wayside or be placed in the spotlight, and we will continue to update membership on what is happening in the legislatures. We hope that many of you choose to be involved with our legislative initiatives and advocacy opportunities. Our new communication system “VoterVoice” makes it even easier to work with us at NAPBS to have your voice heard by your elected officials, which is an important part of the legislative process. These sessions are going to move very quickly, and we look forward to having you join us for the ride. If you have any questions about particular legislation, or the process in general, please feel free to contact Brent Smoyer at brent.smoyer@napbs.com or 402-957-1179. ▲

NAPBS APAC Chapter Holds Successful Annual Meeting

By Sachin Aggarwal and Summa McCosker

The NAPBS APAC Chapter held a successful Annual Meeting on Friday 24 November 2017 at the Conrad in Singapore. It was a full agenda with almost 40 members, vendors and speakers attending from 12 countries around the globe. Many members were able to put faces to names after years of working together, new friendships were formed and others reunited.

Our outgoing chair, Elizabeth Fitzell, shared our achievements for the year and provided an overview of many of the legislative changes affecting the APAC region over the past 12 months. Elizabeth welcomed the newly voted members to the incoming executive committee: Milo Zhou of RISQ Group by Sterling Talent Solutions to the position of Treasurer, and Shakil Gour of Neeyamo to the position of Secretary.

Summa McCosker presented the report from the Education Committee, outlining the activities and contribution of our members to the Global Learning Center; additionally, Summa introduced the newly formed Australian sub-committee. Milo Zhou presented on the Membership & Communications committee, highlighting our increased membership.

We started 2017 with one of our key goals being to increase our membership and we have made good progress.

The APAC Chapter currently has 66 members from 16 countries. Our chapter is now the largest and most active outside the U.S. We started 2017 with one of our key goals being to increase our membership and we have made good progress.

Sachin Aggarwal delivered on our financial position within the chapter. Following the committee presentations, each member introduced themselves to the group in a light-hearted session, filling in the gaps and sharing prepared statements with the group.

Our guest speaker, Kerstin Bagus, representing the NAPBS Board, educated all of us on the benefits of our NAPBS membership. Her overarching message was to determine your goals and needs from the NAPBS, whether those goals are inspired by networking, leadership, presentations or the community. Most importantly, Kerstin encouraged us all to get involved, emphasising the benefits of participating in NAPBS far outweigh the time invested. Kerstin also covered the origins of the NAPBS' globalisation strategy and the current activities of the Global Task Force. All agreed there are exciting changes to come.



Later in the day, Kerstin also presented on the EU GDPR. We all had the opportunity to see “the scroll,” which will need framing and will go down in NAPBS history. Kerstin certainly made the obligations far clearer and emphasised that most of us in the room would be affected and to “start now” to review processes to ensure compliance.

A session to obtain member feedback was exceptionally successfully as facilitated by Marina Ishak of RISQ Group by Sterling Talent Solutions. During this session, members shared their experiences and gave feedback on the successes of the NAPBS and also what they would like to see in the future. Most agreed they appreciated the resources available and education was strong. From this session emerged some great ideas, including a “buddy” system for new members, considerations for regional compliance, the need for more sharing of legislative changes, and a desire for more regional conferences. The passion amongst our members was evident, with a number volunteering their time to help make these objectives happen.

If you have viewed any of the [Global Learning Center](#) webinars you have seen some of the fruits of our labour. Summa McCosker, APAC Chapter Chair-Elect, has been the driving force behind six of the Global Learning Center webinars available to all NAPBS members. We encourage you to use these resources not only to expand your own knowledge base, but also to use that newly expanded knowledge base to educate your clients about various geographic regions. They are short recordings so you can conveniently add them to your schedule.

For 2018, we will continue to place our focus on growing our membership while we look to efforts that will impact everyone: globalisation for NAPBS.

The APAC Chapter began forming in 2009 and after nearly two years of hard work it was officially ratified in September 2010. We have come a long way since then and we are excited about what is ahead for NAPBS and the APAC Chapter. ▲

Sachin Aggarwal, A.M.S. Inform Private Limited, is the APAC Chapter Chair. Summa McCosker, PeopleCheck Pty Ltd, is the APAC Chapter Chair-Elect.

Keep the conversation going! Visit the [NAPBS Community](#) forums to discuss this topic.

Dish Network Decision Underscores Importance of Compliance with Regulatory Settlements and Associated Litigation Risks

By Stephen C. Piepgrass, David N. Anthony, and Ashley L. Taylor, Jr.

As corporate counsel who have engaged in protracted negotiations with regulators know, once an agreement has been reached settling allegations of consumer protection violations, it can be tempting to put the signed settlement paperwork in a drawer and forget about it. Although decided under the Telephone Consumer Protection Act (“TCPA”), as opposed to the Fair Credit Reporting Act or other laws and regulations that typically address background screening, the recent decision in *Krakauer v. Dish Network LLC* awarding treble damages against Dish Network LLC (“Dish Network”) has much broader ramifications for companies in heavily regulated areas – including those involved in background screening. Specifically, the case illustrates the perils of failing to develop the proper compliance protocols to institutionalize the terms of a settlement with a regulator.

In a strongly worded opinion, the court held that Dish Network knew that one of its vendors, Satellite Systems Network (“SSN”), violated the TCPA and that Dish Network “repeatedly looked the other way” when it came to SSN’s compliance failures.

On May 22, 2017, Judge Catherine C. Eagles in the U.S. District Court for the Middle District of North Carolina trebled the jury’s award in *Krakauer* of \$20.5 million in statutory damages for violations of the Telephone Consumer Protection Act (“TCPA”) against Dish Network – resulting in a total award of over \$61 million in damages.

In a strongly worded opinion, the court held that Dish Network knew that one of its vendors, Satellite Systems Network (“SSN”), violated the TCPA and that Dish Network “repeatedly looked the other way” when it came to SSN’s compliance failures.

Importantly, the court relied heavily on Dish Network’s alleged failure to adhere to the terms of an Assurance of

Voluntary Compliance (“AVC”) with forty-six state Attorneys General in 2009 that addressed the company’s telemarketing practices. In its Memorandum Opinion, the court wrote that “[w]hile Dish promised forty-six state Attorneys General in 2009 that it would enforce TCPA compliance by its marketers, Dish did nothing to monitor, much less enforce, [its marketers’] compliance with telemarketing laws.” The court found that this failure constituted evidence that Dish Network willfully violated the TCPA.

Background

In the summer of 2009, Dish Network signed the AVC with forty-six state Attorneys General related to the telemarketing practices of the company and its vendors. Although Dish Network did not admit liability, it agreed to pay a nearly \$6 million fine under the terms of the AVC.

The AVC also required Dish Network to supervise its marketers to determine if they were complying with federal do-not-call laws and to discipline or terminate them if they failed to take steps to prevent violations of the law. The AVC further required Dish Network to affirmatively require “Covered Marketers” – like SSN – to comply with the terms of the agreement.

In 2014, Thomas Krakauer, the plaintiff in *Krakauer*, brought his class action suit against Dish Network, alleging that he was repeatedly called by SSN, an authorized Dish Network dealer, between 2009 and 2011, despite his name’s presence on the Do-Not-Call Registry (“DNC Registry”). On behalf of himself and the class, Krakauer alleged that Dish was liable under the TCPA as SSN’s principal. The lawsuit sought injunctive and monetary relief on behalf of a class of all persons whose numbers were on the DNC Registry, but who nonetheless received multiple telemarketing calls from SSN to promote Dish Network.

After the court certified the class, the case was tried before a jury in January 2017. At trial, the plaintiff also presented evidence of Dish Network’s willfulness. The jury ultimately found that SSN acted as Dish Network’s agent when it made the calls at issue, that Dish was liable to the plaintiff and \$400

Continued on page 12


Dish Network Decision *Continued from page 11*

for each call to the certified class members within the relevant time period. With over 50,000 calls at issue, the damages totaled \$20.47 million.

Finding of Willfulness

Under the TCPA a plaintiff may recover treble damages if the defendant “willfully or knowingly violated” the relevant provisions of the TCPA and the court determines in its discretion that trebling is appropriate. 47 U.S.C. § 227(c)(5).

In her 30-page memorandum opinion and order, Judge Eagles held that Dish Network willfully violated the TCPA by failing to oversee the marketing activities of SSN. On this basis, the court tripled the statutory damages awarded to the named plaintiff, Krakauer, and the class of call recipients.



The court focused heavily on Dish Network’s failure to adhere to the terms of the AVC in finding that the company “willfully or knowingly violated” the TCPA.

The court focused heavily on Dish Network’s failure to adhere to the terms of the AVC in finding that the company “willfully or knowingly violated” the TCPA.

For example, the court noted that the “record is silent about any efforts Dish Network undertook to comply with the promises and assurances it made.” Instead, the court stated, Dish Network “ignored SSN’s misconduct and, despite promises to forty-six state Attorneys General, it made no effort to monitor SSN’s compliance with telemarketing laws.”

The court concluded that “Dish did not take seriously the promises it made to forty-six state Attorneys General, repeatedly overlooked TCPA violations by SSN, and allowed SSN to make many thousands of calls on its behalf that violated the TCPA. Trebled damages are therefore appropriate.”

Practical Implications

From a compliance perspective, the *Krakauer* decision should be taken as an important lesson for any company that settles a regulatory matter involving a consumer protection allegation, including with respect to background screening issues.

The court’s decision sends a clear message that companies risk serious liability for failing to abide by the terms of agreements with state Attorneys General and other regulators. Such failures can play a role in future class actions lawsuits, as courts may consider them in determining liability and awarding damages.

In a typical AVC or Consent Order with a regulator, the parties will agree that the settlement does not constitute an admission of fault, liability, or wrongdoing. The parties then agree that the company will agree to reform its business practices, submit to future monitoring by the regulator and sometimes pay a fine. The required reforms are often spelled out in detail and if a regulator finds the company has failed to abide by the terms of the agreement, this can lead to hefty statutory penalties.

In *Krakauer*, however, the court relied on evidence that Dish Network failed to meet its promises to the Attorneys General to conclude that Dish willfully violated the TCPA and, on that basis, awarded treble damages in favor of the class members.

The first lesson of the *Krakauer* case is clear: after a settlement, companies should put policies and practices in place for their background screening operations to ensure they are abiding by the terms of agreements with regulators because, even if regulators do not take action to enforce the terms of those agreements, plaintiffs’ lawyers can point to violations of those agreements to seek greater damages.

Second, the court in *Krakauer* relied upon the “well-established” rule that “at a minimum, a principal is liable for the willful acts of his agent committed within the scope of the agent’s actual authority.” The court went on to observe that Dish Network’s knowledge of SSN’s conduct would be enough to impute willfulness to Dish Network. Thus, because Dish Network knew or should have known that SSN was violating the TCPA, Dish Network’s own conduct could be deemed a knowing and willful violation of the TCPA.

The court’s reasoning on this point underscores the importance for companies – including those that rely on third parties to conduct background screening – to have in place rigorous vendor management programs to ensure not only that the companies themselves comply with agreements with regulators, but that the vendors on which those companies rely do so, too. ▲

COMMIT TO EXCELLENCE



The Background Screening Agency Accreditation Program has become a widely recognized seal of approval that brings national recognition to an employment background screening-affiliated organization for its commitment to excellence, accountability, high professional standards and continued institutional improvement. And better yet, accredited firms report a smoother operations department which they attribute to documentation and standardization of processes reducing error rates and lowering overall cost. **Get started now and watch how your organization improves its efficiency.** Start your accreditation process today!



VISIT WWW.NAPBS.COM AND CLICK ON THE ACCREDITATION LINK TO LEARN MORE.

Validating Identity in the Digital Age *By Sarah Baldeo*

In 2018, it seems fraud is more prevalent than ever before. In some ways the overwhelming and continuous prominence of the digitalization of data can perhaps be blamed for this. While we continue to adapt and implement technology it is indeed to be expected that the protection of data collection in turn becomes more of a concern. Data as we may all collectively be able to agree is the most valuable commodity and thus the most likely to be stolen.

In Canada, one of the legal requirements for criminal screening is proving identity.

Particularly for CRAs we are often tasked with both collecting, storing and exchanging personal information. In Canada, one of the legal requirements for criminal screening is proving identity. In terms of importance, industry experts can agree that it is equally important to the other requirement of obtaining consent from an individual (again, in Canada).

In the screening industry as we observe the continued evolution of remote work and furthermore non-traditional labour roles, we can observe that often people may never meet their employees/contractors in person. Given this new (or not so new) reality, proving identity is more important than ever and fraud is definitely a very serious concern. When someone provides their ID how then can we be sure they have not stolen the ID?

Electronic Identity Verification (EIV) is not new to the industry but in certain demographics what has been noted is a tendency for failing EIV which is not necessarily related to potential fraud. That is, EIV, due to its dependency on credit-related questions is not always able to validate a person's identity. There are many reasons why this may occur: perhaps a person does not have sufficient credit history, or perhaps they are not technologically savvy, etc.

A new method of validating identity has now come into the spotlight – namely virtually validating identity through real-time video. Facial recognition software continues to evolve and expand its applications – and the enforcement agencies in Canada have become aware that validating identity electronically has certain limitations. What's interesting with

this evolving method of virtually validating identity is that the industry has yet to publish findings on its success rates and potential implications for privacy/compliance.

A new method of validating identity has now come into the spotlight – namely virtually validating identity through real-time video.

When a CRA contacts an individual to validate their identity virtually, we must ask how is this best achieved? Do all enforcement agencies agree to accept this as a valid form of identity validation? Lastly, does this virtual method render the electronic identity validation obsolete? As the screening industry moves further into digitalization and integration with technology one thing is certain – things are changing quickly – virtual identification is just one of the latest technologies to keep an eye on. ▲

Sarah Baldeo is the Division Director: Screening at ISB Canada. In addition to her role at ISB, Sarah writes regularly for HR.com and has over a decade of experience in HR Tech development, as well as HR legislative compliance. Her background is in neuroscience and data analytics.

Keep the conversation going! Visit the [NAPBS Community forums](#) to discuss this topic.



How Do You Say “Yes” In a “No” Business? *By Kevin Bachman*

Background checking is a business where clients hear “no” all the time.

No, that background check isn't finished.

No, I can't always say why I need to wait for the court clerk to call back.

No, the registrar's office is closed for three weeks.

No, that's not compliant under (fill in the blank).

No, we can't call your candidate for you to say you won't hire them.

Most of the time, it's a well-intentioned desire to protect employers. But each “no” increases risk clients will leave. And constant no's demonstrate you can be a difficult partner to work with.

Meanwhile, there's constant worry a competitor will accommodate that request, especially in compliance areas where case law or regulations are grey. Despite best intentions to act in a client's best interests, CRA's counterintuitively often have to choose between financial success and increased organizational risk.

In our business, victory is often saying “no” while the client thanks you for not accommodating their request.

This article goes beyond just educating your client. Some don't want to be taught, or they're unavailable, or perhaps they're too big to effectively disperse those messages. So what do you do when you can't break through?

These five steps lower the chance a client leaves and reduces your urge to cut corners. Leveraging opportunities to say “yes” in the big picture, while saying “no” in the moment helps protect your CRA and your client.

1. Understand your client is not always the person on the other end of the phone

A recruiter trying to satisfy a hiring manager's immediate need probably isn't thinking about long-term risk. But their VP, who bought from your VP, surely is. Relay to your client that sometimes interests collide. A delayed start date or lost candidate pales in comparison to a lawsuit or regulatory issue.

You are saying “yes” to the organization, even though you're saying “no” to the recruiter. You're no longer saying “no.” You're saying they're fortunate to have you as a partner.

2. Client Support shouldn't be entry level

CRA support isn't grocery store customer service. They're the front line that increases or decreases client and CRA risk by the words they say or don't say. They should be trained as

experts, ideally working in Operations and Compliance prior to a client support. CRAs that deploy this model not only benefit by providing stronger guidance, but now it's happening in real time. No three-day delays because the rep needs to find others and less executive support is needed to help answer it. Strong reps can say “yes” by identifying every opportunity they can to help with a problem, even if it doesn't solve the entire problem. Weaker reps are more likely to blanket answer, not knowing what's off limits and what isn't.

3. Leverage NAPBS and the increasing number of accredited companies

When a request isn't in accordance with industry best practices, don't be shy about communicating it. There's a dual advantage to deflecting the issue. You get to say that it's not really your rule and you imply, rightfully so, that competitors will likely say the same thing.

4. Look for EVERY opportunity to say “yes”

Recognize the amount of times your client doesn't get what they want, and overcompensate whenever possible. Capture the benefit of a client hearing “yes” in five minutes versus five days. This is especially important when yesterday you said you couldn't legally implement that cool idea they earmarked as a big time saver. Structure your response times, your internal capability inquiries, to make speedy decisions. After all, if you can't deliver on one solution a client really wants, make sure the one you can deliver happens quickly, efficiently and as cost effectively as possible.

5. Listen even when the client doesn't call

Clients are always communicating, even if you don't hear it. Has a client stopped complaining about TAT, after calling twice a week for a month? What does the data say? If there's no change, it's more likely a sign they're giving up on you than a sign they're feeling better.

Identify the common operational and service items that cause pain. Run those back through the client's account. This is a fabulous way to chart and predict who is feeling great and who isn't. Clients will love your proactive response to problems, especially when they didn't notify you.

In a business that's riddled with things we want to do but are unable to do, these are effective solutions to deliver client wins when you're ultimately unable to satisfy their need. Add the benefit of better managing risk to you and your clients, and you're on your way to stronger, smoother relationships. ▲

Kevin Bachman is the founder of The CRA Doctor. As a 15-year background check executive, he provides financial, strategic and operational counsel to owners and senior management. Kevin can be reached at kevin@cradoctor.

Get to Know Your NAPBS Board

In this feature, we interview members of the 2017-18 NAPBS Board for a closer look into those who serve tirelessly to promote the profession.

Dean Carras, Associate Member Director



Dean Carras, CFE, PI, serves as Innovative's V.P. and Chief Compliance Officer. In addition to his current term as one of two Associate Member Directors on the Board of Directors which began in September of 2017, Dean previously served two terms on the NAPBS Board and is the

Board Liaison to the Advocacy Group. He is a current member of the Finance Committee, Governance Advisory Group and Conference Planning Task Force.

Dean has served in past capacities as ASIS International's Charlotte Chapter 65 Secretary (2007-2008) and a former member of ASIS International's Council on Business Practices. Dean is a former magistrate judge for the State of North Carolina where he served for 12 years and is a veteran of the screening industry, having served in various capacities from Research Manager to Chief Compliance Officer.

Dean is a Certified Fraud Examiner and licensed by the Commonwealth of Virginia, Department of Criminal Justice Services as a Private Investigator (DCJS 99-212824) and as a DCJS Compliance Agent, as well as by the State of North Carolina (2816-PIA). Dean has obtained NAPBS FCRA Basic Certification, NAPBS FCRA Advanced Certification, as well as FCRA-FACTA certification by the Consumer Data Industry

Association. Dean is a Master Mason, Past Master of Excelsior Lodge 261 in Charlotte, N.C., a 32 Degree Scottish Rites Mason, a Shriner, and Secretary of the Moore County Shrine Club.

My role at NAPBS:

I am currently serving as an Associate Board Representative. I am an active member of the Finance Committee, Governance Advisory Group, and the Board Liaison for the Advocacy Committee.

Why I wanted to serve on the NAPBS Board:

I have served NAPBS in one capacity or another since 2006. I missed being in the mix and working with members of the Board after being off for a couple of years. I prefer driving to being along for the ride.

What I do when not at work:

My wife and I have a hobby farm and I spend off time feeding or cleaning up after the horses, chickens, goats, pigs, dogs and barn cats.

What I'm reading:

I am rereading Stephen King's *The Dark Tower* series.

Favorite blogs:

I do not have a favorite blog. I used to follow some of the political bloggers but with the current state of politics not so much.

On my desk right now:

Humidor, Kindle, computer and coffee cup.

Continued on page 17

FRS

Big Changes around the bend... Don't get left behind

**Powerful
Proven
Preferred**

Get on board the Express!!! 146017

www.frsoftware.com - sales@frsoftware.com - Phone - 704-282-2320

Get to Know Your NAPBS Board *Continued from page 16*

Curt Schwall, Regular Member Director



Curt Schwall is the Vice President of Compliance and Regulatory Affairs at Employment Background Investigations Inc. Curt's experience in the screening industry spans more than 20 years and is recognized as a subject matter expert on all aspects of background screening. In addition to his current

term, Curt has previously served two terms on the NAPBS Board. A long-time volunteer within the association, Curt has also co-chaired the Government Relations Committee and most recently led the development of the Access and Accuracy Subcommittee.

At EBI, Curt oversees global compliance initiatives and privacy policies. Curt is a Certified Compliance and Ethics Professional (CCEP) with a B.S. from Eastern Michigan University in Criminal Justice.

My role at NAPBS:

I am the Board Liaison to the Best Practices Committee. My liaison role is to provide support to the committee co-chairs and members in any way that I can so that we can work towards our association's goals and the overall betterment of our industry.

Why I wanted to serve on the board:

First and foremost, it's an opportunity to have a positive impact on our industry. We have so many critical issues in

front of us: preserving access to public record data, regulatory challenges, promoting the benefits of effective background checks, and the protection of employers to exercise non-discriminatory discretion in making employment decisions. We have very, very important work ahead of us. I will also note that I've been honored to now be a member of the board for the third time. It is an amazing privilege to work with these dedicated volunteers who work incredibly hard for the benefit of all association members.

What I do when not at work:

I play golf as much as I can in the 7 months a year we can play in the Cleveland area. I've also recently started playing a regular amount of tennis.

What I'm reading:

I don't have the attention span for books, so I very much enjoy magazines and newspaper articles. USA Today, Wall Street Journal and the sports pages of my native Detroit newspapers are my daily reading activities.

Favorite blogs:

No particular favorite blogs, but I certainly enjoy reading opinions about sports and politics.

On my desk right now:

A jar of peanuts, my Detroit Red Wings coffee mug and a lot of sticky notes to remind me of my current work priorities. ▲

Continued on page 18



THE GLOBAL SCREENING EXPERTS

Compliance expertise and wholesale records
from more than 230 countries.

ANDY HELLMAN
+1.678.821.5172

KERSTIN BAGUS
+1.678.626.5213

THEGLOBALSCREENINGEXPERTS.COM
GLOBAL@CLEARSTAR.NET

CLEARSTAR®

Get to Know Your NAPBS Board *Continued from page 17*

Kelly Uebel, Regular Member Director

Kelly Uebel, General Counsel for Asurint, joined the screening industry in 2011 following several years working in the electronic discovery, computer forensics and data recovery space. In her current role, Kelly oversees the teams responsible for counseling staff on legal and regulatory risks and requirements. This includes providing subject matter expertise, and monitoring and evaluating proposed and existing laws and regulations from the local, state, federal and international level that impact background screening.

In addition to her role at Asurint, Kelly serves on the Board of Directors for NAPBS. In this capacity, Kelly also acts as the Board Liaison to the Government Relations Committee where she previously served as co-chair from 2015-2017.

Previously, Kelly worked as General Counsel for Info Cubic, Legal Counsel – Global Regulatory Affairs for First Advantage and as a Compliance Officer focused on domestic and international screening issues for Verifications Inc. Kelly holds a law degree from William Mitchell College of Law, received her Bachelor of Arts in Political Science (with a concentration on law and politics) and a Minor in Management from the University of Minnesota, Twin Cities and is admitted to the Minnesota bar.

My role at NAPBS:

Currently, I serve on the Board of Directors and am the Board Liaison to the Government Relations Committee.

Why I wanted to serve on the board:

I'm incredibly passionate about the background screening industry because what we do matters so much to our communities. I've had some awesome experiences volunteering with NAPBS, which included my time as co-chair of the

Government Relations Committee. Seeing the impact we can have on the city, state and federal level is exciting, and I wanted to continue working for the greater good of the Association as a member of the Board.



What I do when not at work:

Living in Minnesota, any warm day is a great opportunity to get outside. Running, taking my dog for a walk or drinking wine on a patio are all wonderful ways to pass the time. During the winter I try to catch up on my reading, work on some puzzles, and attend bingo games and meat raffles (yes, meat raffles are a real thing in Minnesota!) at the local dive bars.

What I'm reading:

Currently I'm reading *What Happened* by Hillary Clinton and *Alexander Hamilton* by Ron Chernow. Just some light, uplifting reading to pass the time!

Favorite blogs:

I'm not really a blog person. I do like the Bachelor/Bachelorette recaps written by Kristen Baldwin for Yahoo though. Pretty funny stuff.

On my desk right now:

A picture of my husband Brian and dog Henry, a few legal pads, the most recent Docket magazine edition (published by the Association of Corporate Counsel) and some Skinny Pop (white cheddar, which is the best kind in my humble opinion). ▲

To learn more about the [NAPBS Board of Directors](#) visit the NAPBS website.

If you're looking for the best background screening technology provider, you've come to the right place.

Background screening agencies need the best technology to deliver the most efficient tools for the job.

Choose TazWorks to benefit from our resources and commitment to delivering the top product when it comes to enterprise-grade background screening software.

Call us today at (801) 572-7401 Ext. 3 to find out how the TazWorks InstaScreen™ platform will enhance your business.



Listen. Learn. Advocate.

2018 Mid-Year Legislative & Regulatory Conference Washington, D.C. April 15-17, 2018

Join NAPBS in Washington D.C., April 15-17, 2018, for the 2018 NAPBS Mid-Year Legislative and Regulatory Conference. This conference focuses on regulation, legislation, education and compliance related to the background screening industry. There's something for everyone - the industry novice, the seasoned expert and everyone in between. Each attendee will be able to take away valuable information and resources to benefit their specific business goals.

The sold-out [Exhibit Hall](#) will be packed with industry partners showcasing their products and services. This is a great opportunity for one-on-one time to learn about the latest industry products to enhance your business.

Also plan to participate in [Advocacy Day](#) following the conference on Wednesday, April 18, when we will visit Capitol Hill and work to collectively influence positive change for the background screening profession. NAPBS will provide excellent training for all participants and leave-behind materials to maximize the effectiveness of your meetings.

[Register online](#) today to hear from key industry partners and government officials and participate in valuable training available only at NAPBS conferences. Register on or before March 30 to take advantage of Regular Registration rates.

Visit the [2018 Mid-Year Legislative & Regulatory Conference](#) website for more information.

Mid-Year Conference Dates at a Glance

- March 23** – Deadline to book hotel room at the conference rate (subject to availability)
- March 30** – Last day for the regular conference registration rate; last day to register for Advocacy Day
- April 15** – First Day of 2018 Mid-Year Legislative & Regulatory Conference
- April 18** – NAPBS Advocacy Day

Continued on page 20

*Listen.
Learn.
Advocate.*

**2018 NAPBS
MID-YEAR LEGISLATIVE
& REGULATORY
CONFERENCE**



APRIL 15 – 17, 2018

WASHINGTON, DC

What Attendees Had to Say About the 2017 Mid-Year Conference:

“Every educational session I attend is relevant and I can immediately apply to my business.” -
Andrew Scott, Scott-Roberts and Associates LLC

“Excellent overall program. Wonderful way to meet fellow industry personnel. Lobbying day was excellent.” -Thomas A Coz, XPEDITE
Wholesale Criminal Research

“Thank you for a wonderful experience. As a first-time attendee, I appreciated a lot of positive interactions, received a wealth of knowledge and validated my experience in the industry thus far.” -2017 Mid-Year Attendee

Listen. Learn. Advocate.

Continued from page 19

Accommodations

NAPBS is excited to host the Mid-Year Conference at the Crystal Gateway Marriott, located minutes from downtown Washington, D.C. and less than 1 mile from Reagan National Airport, for the second year. In addition to utilizing the Crystal Gateway Marriott, NAPBS has secured an overflow hotel block at the Crystal City Marriott, which is located across the street and by underground tunnel to the host venue. The rate is \$244 per night plus taxes and reservations must be made by Friday, March 23, 2018 to secure the group rate. The group rate is only available on a limited basis. Please visit the [Hotel and Travel](#) section of the Mid-Year Conference website for details on making reservations and the most up to date availability information.

Educational Sessions

We've made it easier than ever for you to focus on the education that applies to your daily responsibilities by streamlining the educational sessions into five educational tracks: Legal/Compliance, Business, International, Drug Testing and Tenant. Focus on one particular track or mix and match your sessions

Continued on page 21



This is today's applicant

Her main device is a phone. She doesn't use a computer; in fact, she doesn't even own one. She thinks email is yesterday's technology.

Accio Enterprise helps you meet applicants' expectations. You communicate with them via SMS. They complete their application on their phone. They check the status of their background check on their phone. They feel like you get them.

When it comes to saving time and effort, we get it. Let us show you how much more we can save you. Schedule a demo at www.AccioData.com or email us at sales@AccioData.com.



Listen. Learn. Advocate.

Continued from page 20

for a truly custom conference experience. Sessions are color-coded to find your track easily in the schedule. There are a number of concurrent sessions, so coordinate with your colleagues to plan to attend a variety of sessions and share your information.

[View the Session Descriptions](#)

[View the Conference Schedule](#)

General Sessions

FCRA Ignorance Isn't Bliss

Pamela Devata, Seyfarth Shaw LLP

Ignorance isn't always blissful, especially when it results in unexpected litigation. NAPBS resident FCRA authority Pam Devata will teach you how to protect yourself and your company from being the next to "learn the hard way" in FCRA litigation.

Communication in the Modern Era and Being an Effective Advocate for the Industry

Adam Temple, JDA Frontline; Trevor Francis, JDA Frontline

This session focuses on two areas - how communication has evolved to where it is today and how those in the background screening profession can be effective advocates for the industry.



We explore how those in the newsroom - both reporters and editors - do their jobs and why they report the news the way they do. We discuss what those in the CRA industry should know when planning to engage with the media or respond during crisis situations, along with how others view the background screening industry vs. the way those within the industry view it. Finally, we cover how you can effect change through the way we communicate internally, to policy makers and the media.

Continued on page 22

Work smarter with RapidCourt.

Try us for free, and see what
you've been missing. **Literally.**



rapidcourt

rapidcourt.com | 704.997.0101

 Find us on Twitter @rapidcourt

Listen. Learn. Advocate. *Continued from page 21*

Breakout Sessions

Educational Tracks

Legal/Compliance

Business

International

Drug Testing

Tenant

***General Session - FCRA Ignorance Isn't Bliss**
Pam Devata, Seyfarth Shaw LLP

Breakout Session - Investigative Consumer Reports: Litigation Trends and the Salary History Ban Movement *William Simmons, Littler Mendelson PC; Courtney Stieber, Seyfarth Shaw LLP; Esther Slater McDonald, Seyfarth Shaw LLP*

***Breakout Session - All About Data -- Retention, Disposal, Security and Breaches**
Montserrat Miller, Arnall Golden Gregory LLP

***Breakout Session - Driving Records: Putting Your Compliance in Gear**
Rebecca Kuehn, Hudson Cook LLP; Ronald Raether, Troutman Sanders

Breakout Session - The CRA Guide to Social Media Background Screening
Bianca Lager, Social Intelligence; Montserrat Miller, Arnall Golden Gregory LLP

Breakout Session - Insurance: Why It's The # 1 Compliance Risk Area And How To Get It Right
Scott Paler, DeWitt Ross & Stevens S.C.

Breakout Session - Ban-the-Box: Multi-jurisdictional Compliance and Enforcement Trends
John Zaimes, Mayer Brown; Roxanne Wilson, Mayer Brown; Robert Szyba, Seyfarth Shaw LLP; John Drury, Seyfarth Shaw LLP

***Breakout Session - Best Practices for Compliance with the FTC Act**
Irene Liu, Checkr; Kandi Parsons, Zwillgen; Tiffany George, Federal Trade Commission

***Breakout Session - Increasing Litigation Against Wholesalers: What it Means for the Industry as a Whole, How to Prepare and Defense Strategies**
David Anthony, Troutman Sanders LLP; Cindy Hanson, Troutman Sanders LLP; Timothy St. George, Troutman Sanders LLP

General Session - Communication in the Modern Era and Being an Effective Advocate for the Industry
Adam Temple, JDA Frontline; Trevor Francis, JDA Frontline

Breakout Session - Surviving The Shifts: The Changing Face of Engagement
Bryan Snow, Wholesale Screening Solutions; Kym Kurey, Bridges Communications Group; Tom Fulmer, National Drug Screening Inc.

Breakout Session - Background Checks – Minimizing High Impact Risks with Subcontractors
Elizabeth Stern, Mayer Brown; Marcia Goodman, Mayer Brown

Breakout Session - Untangling the Web of Cross Border Transfer Requirements into and out of the U.S.
Kerstin Bagus, ClearStar Inc.; Kevin Coy, Arnall Golden Gregory LLP

Breakout Session - North of the Border - Canadian Privacy & Legislation
Sarah Baldeo, ISB Canada

***Breakout Session - Changing Landscape of Tenant Screening Laws**
Webb McArthur, Hudson Cook LLP; Jennifer Sarvadi, Hudson Cook LLP

Breakout Session - The Prescription Drug Epidemic in the Workplace: What Screeners Need to Know
Nina French, The Current Consulting Group LLC

** Indicates sessions which qualify for Professional Development Credit (PDC) toward FCRA Basic Recertification.*

FCRA Advanced Certification Class

The FCRA Advanced Course and Exam will take place on Sunday, April 15, 2:30-5 p.m. For more information about the FCRA Advanced Certification visit the [NAPBS website](#).

FCRA Advanced Certification Fees:

NAPBS Member: \$150

Non-Member: \$250

FCRA Advanced Re-certification Fees:

NAPBS Member: \$125

Non-Member: \$200

In order to register for the Advanced Certification session *you must hold a current FCRA Basic Certification*. To maintain your FCRA Advanced Certification, you are required to take the course every two years.

The FCRA Basic Certification program was developed to provide a fundamental knowledge of FCRA regulations and is offered as five one-hour webinars and a certification exam to be completed at your convenience. Members who successfully complete the certification will be listed in the NAPBS Individual Membership Directory as certified. For more information about the FCRA Basic Certification visit the [NAPBS website](#). ▲

NAPBS Accredited Companies

Congratulations to the Newly Accredited Companies:

Asurint
Southern Background Services, LLC
True Hire LLC

All Current NAPBS Accredited Companies as of Feb. 2, 2018

AAIM Employers' Association
Accurate Background Inc.
AccuSource Inc.
Active Screening
Alliance 2020 Inc.
American DataBank LLC
AmericanChecked Inc.
Amerisearch Background Alliance
Applicant Insight Inc.
ApplicantSafe - TenantSafe Inc.
Application Verification Inc.
Asurint
Background Investigation Bureau LLC (BIB)
Background Profiles Inc.
Backgrounds Online (IQ Data Systems)
BackTrack Inc.
CareerBuilder Employment Screening LLC
Castle Branch Inc.
Cedalius Group
Chane Solutions
Checkr Inc.
CICS Employment Services Inc.
Cisive
ClearStar Inc.
CNet Technologies LLC
Corporate Screening Services Inc.
CourtHouse Concepts Inc.
Creative Services Inc.
Credential Check Corporation
Crimcheck.com
CriminalRecordCheck.com
CSS Inc.
Data Facts Inc.
DataQuest LLC
Edge Information Management Inc.

Elite Backgrounds
Employers Choice Online Inc.
(dba Employers Choice Screening)
Employment Background Investigations
Inc. (EBI)
Employment Screening Resources
Employment Screening Services - AL
Employment Screening Services - WA
Essential Resource Group
(dba Essential Screens)
First Advantage Background Services Corp.
FirstPoint Background Screening Resources
General Information Services Inc.
Global HR Research LLC
Global Investigative Services Inc.
GoodHire LLC (Inflection)
Hire Image LLC
InCheck Inc.
Info Cubic
InfoMart
Inquirehire
Integrated Screening Partners,
A ProMesa Co.
Intellicorp Records Inc.
J.J. Keller & Associates Inc.
Justifacts Credential Verification Inc.
MBI Worldwide
Mega Group Online
MetroData Services Inc.
National Crime Search Inc.
National Screening Bureau
Occuscreen
One Source the Background
Check Company
OPENonline
Orange Tree Employment Screening
PeopleTrail LLC
PlusOne Solutions Inc.
PreCheck Inc.
Pre-employ.com
Private Eyes Inc.
Proforma Screening Solutions
Reference Services Inc.

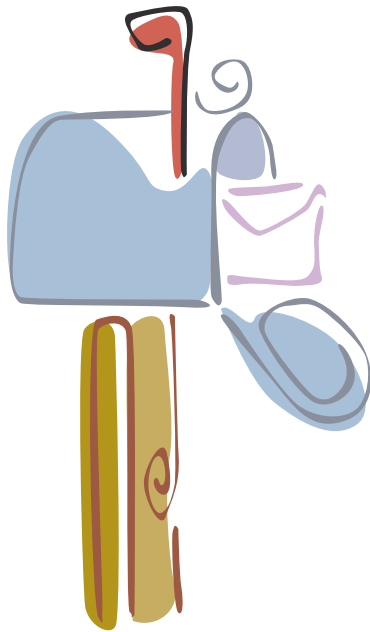
Research Associates Inc.
S2 Verify LLC
Scott-Roberts and Associates LLC
ScreenThem Background Investigations
(dba ScreenThem)
Securecheck360 LLC
Sentinel Background Checks
Shield Screening
Southeastern Security Consultants Inc.
Southern Background Services, LLC
Southern Research Company Inc.
Sterling Talent Solutions
TalentWise
Trak-1 Technology
TruDiligence
True Hire LLC
U.S. Security Care Inc.
Universal Background Screening Inc.
USAFACT Inc.
USAI Intel Inc./Intelifi
Validity Screening Solutions
Vericon Resources Inc.
VeriCORP Inc.
Verified Credentials Inc.
VeriScreen
Vertical Screen Family of Companies:
Business Information Group
Certiphi Screening
Truescreen
Wons Background Investigations





napbs® Journal

NATIONAL ASSOCIATION OF PROFESSIONAL BACKGROUND SCREENERS



Comments or Suggestions?

We'd love to hear from you! If you have a comment, suggestion, information or an article idea that you would like included in the *NAPBS® Journal*, please do not hesitate to contact us at NAPBS Headquarters at info@napbs.com.

NAPBS' Mission and Vision Statement

Our Mission: To advance excellence in the screening profession.

Our Vision: To be the trusted global authority for the screening profession.

Journal Article Submission

If you are interested in submitting an article for the NAPBS Journal, the Communications Committee has developed the following guidelines.

Articles should have certain characteristics:

- New, fresh, timely and relevant topics
- Strictly educational and informative in nature
- Second-person (instructive) or third-person (narrative) perspective
- Unbiased, objective and nonpartisan
- Factual, not opinion based
- Well balanced, addressing all points of view
- Thorough and easy to understand
- An original article you have written
- Published first in the Journal (not a reprint)
- Approximately 800 words in length
- Submitted in .doc format

Article should NOT be:

- Promotional or self-serving to any given organization
- Written in the first person
- Taken from public domain or purchased (If you did hire a ghost writer to write your articles, you MUST have an EXCLUSIVE LICENSE that allows ONLY your name to be associated with the articles produced for you.)

Articles should include:

- Title
- Author
- Author bio, not to exceed 40 words

Articles should be submitted to:

- NAPBS at info@napbs.com
- Articles submitted for the upcoming *Journal* must be received by the deadlines outlined in the media kit.

NAPBS® Journal

2017-18 Chair - Scott Hall
FirstPoint Background Screening Resources

NAPBS Executive Director – Melissa Sorenson
Melissa.Sorenson@napbs.com

NAPBS Operations Manager – Whitney Thweatt
whitney@napbs.com

For additional information, contact the NAPBS office:
info@napbs.com
www.napbs.com

Reach New Potential Customers

Advertise in the NAPBS® Journal

The *Journal* has a circulation that reaches over 4,100 background-screening professionals a year. Contact the *Journal* office to reserve ad space.

110 Horizon Drive, Suite 210
Raleigh, NC 27615
info@napbs.com