

**“If you always do what you’ve always done, you’ll always get what you always got.”**



## **DIGGING DEEPER: THE REALITIES OF OPERATING A CONTRACTING BUSINESS**

By Robin Brunet

This remark (see above), made by Doug Mosher at the TLA’s 74th Annual Convention & Trade Show was about contractors needing to unite during upcoming collective bargaining sessions. However, Mosher’s remark could also be applied to the two other presentations given during his session. One on the importance of drug and alcohol testing programs, and the other on changing WorkSafeBC expectations.

### **Collective Bargaining for Contractors**

But back to Mosher, a performance management consultant at Fir-Labour Relations and ACTION Management Services. His goal at the convention was to stress the urgency for developing a “mass” of coastal forest contractors to engage in collective bargaining. He wants a number large enough to compel licensees and the United Steel Workers (USW) union to give contractors a meaningful say at the bargaining table. “This industry cannot afford another 19 per cent cost increase, which is what happened as a result of the last round of collective bargaining,” he says.

Mosher’s call to action is spurred by

the fact that pulp and paper unions begin bargaining this year; followed by Interior solid wood negotiations next year; and the majority of collective agreements on the coast are expiring in mid-2019. “Another agreement like the current one would not be good for coastal contractors,” explained Mosher.

Mosher reflected on his presentations in the week following the convention. “Hoping for a contractor employee “mass” of over 1,500 is a stretch. But I hold true to my statement about what happens if you do what you’ve always done—which for contractors means accepting licensee agreements that they have no input into.”

Should Mosher fall short of his goal, “then we’ll go with the good group that we have,” he said. “A united front is hard to dismiss, and recent negotiations I’ve been involved in with the USW indicate that they are both receptive and proactive.”

Mosher does concede that considerable baggage would accompany a united group of contractors sitting across the table from licensees and union chiefs. “But if there is collaborative

leadership rather than finger pointing in both labour-management and operating model change processes, good things could result.”

### **Drug & Alcohol Testing Programs**

Paul Foster, vice president for the Denning Health Group, spoke at the convention about how a good substance abuse program—one that runs the gamut from drug testing to providing rehabilitation—fulfills an employer’s legal and moral duty to maintain a safe workplace.

Denning’s founder, Tom Yearwood, later explained to *Truck LoggerBC* how Denning (whose clients include Domtar, Weyerhaeuser, TimberWest, and hundreds of BC contractors) can help clients develop a program that includes drug and alcohol testing. “The process typically begins with a meeting between myself and the prospective client where we review their challenges, operating environment, core business values, and touch on the legal threats and benefits of having their own program,” he says.

Once an initial draft is reviewed during an executive orientation, it is revised



between Denning and a steering committee “that may be a dozen people in a big company or only one or two with many of my contractor clients.”

Yearwood recommends contractors make unions aware of their intention to develop a program early on, and that the unions receive a copy of the draft policy. “Supervisors must be also trained to investigate situations where an employee is suspected of on-the-job impairment or use/consumption, and trained to investigate accidents and near misses to determine if testing is warranted,” he adds.

The ‘roll out’ day is typically several months after the policy is finalized and a notice of implementation is issued.

Yearwood mentions the consequences of not having a policy and program. “A contractor working for a company that requires contractors to have a program and who fails to develop one could have his contract cancelled,” he says. “Beyond that, failing to act in circumstances where an employee is thought to be impaired could result in massive fines under the *Workers Compensation Act* and the possibility of criminal prosecution under Bill C-45.”

### Changing WorkSafeBC Expectations

Yearwood’s grim warning dovetails with a similar one delivered at the conference by Shelley-Mae Mitchell, part-

ner with Borden Ladner Gervais LLP: That more regulatory charges from WorkSafeBC may be forthcoming, and that unlike administrative charges, even a first health and safety offence could result in six months in jail and over \$600,000 in fines (a second offence imposes a \$1.3 million fine and a one year jail sentence).

The most notorious example of jail time occurred in 2016 in Ontario, when construction project manager Vadim Kazenelson was handed a 3.5 year sentence after the Ontario Superior Court found him guilty of four counts of criminal negligence causing death and one count of criminal negligence causing bodily harm. (He had been aware that five of his workers were not wearing safety harnesses but still allowed them to board a swing stage 13 storeys high; it collapsed, causing the men to plummet to the ground.)

Mitchell noted that to set the stage for increased regulatory charges to be successfully prosecuted by the Crown, WorkSafeBC has created ‘for cause’ and ‘for prosecution’ investigative teams, as well as obliging employers to file preliminary and full reporting in cases of death.



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Mitchell later told *Truck LoggerBC*, “Many convention delegates told me they thought the jail time for the Ontario case should have been more severe. The TLA prides itself on extensive safety training and on-site safety, so I’m not surprised by the reaction.

“However, in light of the WorkSafeBC changes, it’s worthwhile reminding employers to review their policies and procedures at least yearly or when new regulations are announced. Also, most importantly, they should investigate any claim made by workers of unsafe practices or conditions, no matter how far-fetched they seem.”

Nothing stays the same in any industry, and it therefore follows that behaviour and attitude must adapt as well in order to achieve the best outcomes. As Doug Mosher suggests, a simple change of mindset can go a long way in improving collective bargaining sessions; and by extension, a renewed focus on the well-being of employees will help contractors stay on top of drug and alcohol testing and evolving WorkSafeBC standards.▲

## The TLA Will Help You Provide an EFAP to Your Employees

At a time when regulators are re-thinking initiatives in order to better protect workers from on-site hazards and other risks, the TLA’s Employee and Family Assistance Plan (EFAP) can be regarded as a tool that provides voluntary, confidential, and immediate access to professional assessment, counseling, and referral services for employees and their families, in order to help resolve personal and work-related concerns—including substance abuse.

EFAPs are automatically included in the TLA small group (one to nine employees) benefits plan, and they’re an option in the benefits plan for members with 10 or more employees.

David Brandt, client account manager for Johnstone’s Benefits (the brokers for the TLA’s EFAP), points out that “because the TLA has such a large labour pool, it enjoys an unusu-

ally low monthly cost rate of \$2.15 per employee; usually the cost ranges anywhere from \$3 to \$6.”

Better still, the services provided by the TLA’s EFAP are comprehensive and include a variety of components. For example, counseling, coaching, and e-learning courses are included, as well as legal, financial, and eldercare assistance.

Brandt says, “Another important thing for TLA members to know is that we have vetted the EFAP provider, meaning the service members receive is professional and reliable.”

He concludes, “TLA member organizations with 10 or more employees can add the EFAP on demand. All it takes is a call or an email to us. It really is a fantastic plan at an unusually good price for association members.

For more information about the TLA’s EFAP program, see page 5.

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