

Testimony of Larry Kidd
President and CEO of Reliable Staffing Services

Before the
Subcommittee on Human Resources
Committee on Ways and Means
United States House of Representatives

Hearing on Unemployment Insurance
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Good afternoon, Chairman Reichert, Ranking Member Doggett, and other members of the subcommittee. Thank you for the opportunity to testify before the Ways and Means Subcommittee on Human Resources. I am honored to be able to speak to you today. My name is Larry Kidd, President and CEO of Reliable Staffing Services, LLC of Jackson, Ohio.

I graduated from Miami University in 1986 and earned my Masters of Business Administration from National University in 1989. From 1986 to 2003, I worked in various positions with three large corporations, ASC Pacific, Hilti, Inc. and Luigino's, Inc. During that period, I was promoted from an entry level employee to a director of a department. In 2003, I left Luigino's and became a partner in a small business. The business was American Warehousing and Logistics, a third party warehousing company. In two years, I was able to increase the business by two times. Consistently, our team faced struggles with finding the "right people" for the "right positions". I engaged the services of temporary staffing firms, but found the staffing firms could not meet our employment demands.

Having experienced the importance of finding and keeping key employees, my management team and I formed a temporary staffing firm. In 2006, we created Reliable Staffing Services (RSS) to focus on staffing in the industrial and commercial markets. Our role was to recruit, screen, interview, hire and place employees in client's workplace. As stated in our client agreements, RSS is the employer of record. This means that RSS is responsible for the FUTA, SUTA, worker's compensation and all other employee costs.

Our company's goal was to service our employment needs but also to creatively supply a market that was underserved. As a former user of the temporary staffing service, my team was very familiar with the importance of finding the right people. In a short period of time,

Reliable Staffing Services became one of the leading staffing suppliers in the region. In 2008, I bought all the remaining interest in the warehousing company. By 2010, I sold the warehousing company to an employee so I could continue to grow the staffing company.

In 2009-2010, the local economy began a downward shift. Our client's customer orders were abruptly cut back which resulted in layoffs of our employees. Our team worked diligently and soon we were able to secured additional clients that needed our workers. We tried to "call-back" many of our laid off employees but found that they were happy with their unemployment benefits and chose not to accept the offers for employment. We contacted the unemployment offices to explain our dilemma and were told by the unemployment staff members that "we have too many claims to process; we simply cannot follow-up on all of these employees". This attitude has made it very challenging to get former employees back to work.

There were several reasons employees chose not to return to work. Below are examples of unemployment recipients of why the recipients refused our job offers.

- It was too far to drive
- They were making too much money with their unemployment benefits to return to work
- They were uncertain of the length of the assignment
- They could not pass a drug test
- They could not afford to take such a large pay cut – Example working for \$17.00/hr, offered \$9.00/hr

In our business we have found unemployment and worker's compensation are our two biggest risk exposures. As a business person, it is important to be able to predict and plan for large expenditures. Unemployment insurance can be very expensive for a small employer.

Cases and award outcomes are subject to the decision of the hearing officers. Three of the more puzzling reasons for unemployment awards are:

- Lack of transportation
- Lack of attendance
- Job performance

I have included four cases in this testimony for your review. Each of the cases outlines what my staff considered clear and valid reasons for employment separation. However, in each of these cases the unemployment hearing officers ruled in favor of paying the former employee unemployment benefits. By losing these cases, our unemployment exposure continues to increase, resulting in a higher unemployment contribution rate.

For the past ten years, I have owned and operated small businesses. In each of the industries that I have served I have found a common theme. Creating and starting a new business is challenging. I am certain that most small businesses face difficult financial times sometime during their existence. Early in my entrepreneurial career due to unforeseen challenges, I had to forgo any personal compensation for months in order to meet my financial obligations. I had to make choices on which vendors to pay or not pay. On a few occasions, our revenues could not meet payroll, so I had to borrow money to pay my employees. Fortunately, we were always able to get through the difficult times and never missed a payment or obligation. With perseverance and hard work, we were able turn our businesses into successful and thriving entities. Over the course of my ten years as a business person we have employed hundreds of workers.

As a small business owner, I have found regulation, cost of compliance and taxes to be extraordinary. Often I found my biggest hindrance to my company growth was not competition or the economy but burdensome government policy. In my staffing company our cost

structure is the cost of wages, cost of burden plus our margin. We charge our clients based on those three items. If the cost of unemployment insurance increases our company may or may not be able to pass that cost to our client. If we cannot pass the cost to the client, we must absorb the cost by reducing our margin or lose the customer. This situation occurs more often than one may realize.

Unemployment benefits should be short term and for the truly needy. Those unwilling to search for work or who do not want to return to the workforce should not be eligible for unemployment benefits. Recipients using illegal drugs should be evaluated for treatment, because they likely are unemployable. Unemployment benefits should not be up to ninety-nine weeks; other programs should be implemented to keep the unemployment recipients in the right frame of mind. Programs such as Ohio's Learn to Earn or on the job training programs are better for employee, the employer and society. These programs keep the employee fresh and motivated.

I have the utmost respect for a small business owner. In some way they are our country's most at risk employees. They carry the burden of growing a business, managing employees, properly applying government regulations, meeting customer demands and creating the next best idea. Many times there is little or no return on investment for the small business owner. When increases in taxes, unemployment burden or other governmental demands occur, the small business person must scramble to find a way to make it work. Please consider the impact increases unemployment burdens and other taxes have on the business owner. Some reports state that 50% of all employees work for a small business. If the risk does not equal the reward, small business people will not continue to take the risk with new ventures.

Chairman Reichert, Ranking Member Doggett, and other members of the subcommittee thank you for opportunity to present my views to you. I appreciate your time and consideration.

Exhibit 1

Employee 1 worked on an assignment beginning on August 26, 2010. On or about October 13, 2010, Reliable Staffing Services, LLC (RSS) received a phone call from the Client requesting that the claimant be removed from the assignment due to low productivity issues. As a result, the claimant was removed from the assignment and was discharged from Reliable Staffing Services (RSS). During the hearing, the claimant stated that he received no prior, similar, or relevant disciplinary warnings with regard to performance or productivity, or as provided for in the Client's policy (point system).

This matter was heard via telephone hearing on April 19, 2011. The Hearing Officer decided that the claimant was discharged by Reliable Staffing Services (RSS) without just cause. The reasoning was "...the employer's witness had no first hand, direct, or personal knowledge as to the facts and circumstances that resulted in claimant's separation. Moreover, the employer's witness was unable to provide any specific or details with regards to the alleged conduct that resulted in claimant's separation – only offering generalized statements or allegations. Based on the available evidence and witness testimony, it cannot be found by preponderance of the evidence that claimant violated employer policy, was subject to discharge pursuant to the client's progressive discipline policy, or that claimant was sufficiently at fault to justify his discharge, or that he was otherwise reasonably subject to discharge at that time."

Reliable Staffing Services (RSS) is a temporary agency that staffs employees on different Client sites. RSS is not on site to observe the behavior of the employees. When a Client requests the termination of an employee for productivity, we grant the wish of the Client, just like in this case. There is not a "point system" in place at the Client's site which applies to temporary employees. The claimant is advised during orientation that he or she must maintain predetermined level of productivity and failure to do so would result in termination.

Exhibit 2

Employee 2 was hired by Reliable Staffing Services, LLC (RSS) on 04/30/2012 and assigned to a Client. He was terminated on 02/13/2013 when the Client noticed he was in violation of the attendance policy. The Client has a 12-month rolling calendar year. According to this Client's policy, seven (7) occurrence points in a year results in termination of employment. Below you will find the list of occurrence incurred by Employee 2:

TARDY 6/29/12

ABS 8/17/12 (1 Point)

ABS 8/31/12 (1 Point)

ABS 9/26/12 (1 Point)

ABS 12/6/12 (1 Point)

NO CALL NO SHOW 1/12/13 (1 Point)

ABS 1/17/13 – Excused

ABS 1/21/13 – Excused

ABS 1/22/13 – Excused

ABS 2/7/13 (1 Point)

The Office of Unemployment Compensation has initially decided, after reviewing the dates the claimant was absent, that the claimant violated the attendance policy. The hearing officer claimed the employer discharged the claimant for violating a company rule, but that the employer failed to establish negligence or willful disregard of the rule on the part of the claimant.

RSS appealed this determination on April 4, 2013.

Exhibit 3

Employee 3 was hired on 07/16/12 for a job for a Client through Reliable Staffing Services, LLC (RSS).

The claimant called off work on 7/23/12 due to car issues. The claimant called back later that day saying that she was quitting effective immediately because she no longer had transportation. Rather than just taking a few days off to get the issue fixed, or at least putting in a 48 hour notice (as per policy), she decided to voluntarily quit that day. It was the claimant's decision to quit and she verbally said "I quit" via telephone.

Initial Unemployment Determinations ruled in favor of RSS. However, the claimant appealed it to the hearing level. The Hearing Officer then issued a Decision stating:

"Although the employer argues that claimant quit, the evidence demonstrates that claimant notified her employer of her inability to continue working at the assignment and the employer discharged her. The employer failed to demonstrate that it has a reasonable policy governing situations like the one present here. Namely; claimant was unable to report to the assignment, but also unable to provide 2 days' notice of her absence. The evidence presented fails to demonstrate fault on the part of the claimant sufficient to warrant her discharge. Based on the above, the Hearing Office finds that claimant was discharged without just cause in connection with work."

The policy at RSS is to put in a 48 hour notice prior to quitting, not prior to being absent. RSS didn't discharge the claimant; claimant quit.

RSS appealed this Decision to the Review Commission on September 20, 2012. The Request for Review was denied.

Exhibit 4

Employee 4 was contacted by Reliable Staffing Services, LLC (RSS) on 02/29/2012 with an offer for a one day job. RSS informed him that if he successfully completed the one day job, we could place him at a Client site for a longer term position. Employee 4 said that taking this job would “mess up” his unemployment benefits. Employee 4 refused the job offer.