

SouthWestern Flash

October 2008, Vol.6, No. 10



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Upcoming Events of Interest

SouthWestern Association Convention

- Feb. 19-20, 2009
Kansas City, Mo.

Western Farm Show

- Feb. 20-22, 2009
American Royal Complex -
Kansas City, Mo.

Mark your calendar and plan to attend!



SouthWestern Association

P.O. Box 419264
Kansas City, MO 64141-6264
Ph: 816-561-5323, 800-762-5616
Fx: 816-561-1249
www.swassn.com

Is your dealership receiving e-mail from SouthWestern Association? If not, send us your e-mail address. We will forward important Association correspondence to your attention via e-mail. Please register your e-mail address at: www.swassn.com/register-email.htm

2009 Convention

Mark Your Calendar for the Annual SouthWestern Association Convention

Once again, Kansas City will be site of the gathering of SouthWestern members for the Annual Convention. Dealers and guests will meet Feb. 19 the Hampton Inn & Suites on the scenic Country Club Plaza for the Thursday night dinner and program. The following morning buses will depart the Hampton Inn for the American Royal Complex. Friday Convention sessions will be held at the American Royal Complex with the afternoon free to tour the Western Farm Show at the Complex. Plan today to join with fellow SouthWestern member dealers to discuss important dealer issues.

Schedule at a Glance

Thursday, Feb. 19, 2009

- 5:30 p.m. - Registration/Reception at Hampton Inn & Suites - Country Club Plaza, Kansas City, Mo.
- 6:30 p.m. - Dinner & Program featuring Greg Risberg - "How to Stay Energized in a Changing World"

Friday, Feb. 20, 2009

- 7:30 a.m. - Buses depart the Hampton Inn & Suites (Shuttle transportation will be provided throughout the day.) *All Seminars at the American Royal Complex*
- 8:00 a.m. - Continental breakfast sponsored by Federated Insurance
- 8:30 a.m. - John Spader - "Dealership Success Strategies"
- Noon - Meeting adjourns
- Lunch on your own
- Afternoon - Tour the Western Farm Show
- 5:30 p.m. - Last bus leaves for Hampton Inn

Convention Highlights

- "How to Stay Energized in a Changing World" - Greg Risberg
6:30 p.m. - Thursday, Feb. 19 at Hampton Inn & Suites

Changes in organizations as well as increasing work demands multiply stress. This program teaches people:

- Proven techniques to reduce stress
- Ways to relax under pressure

Continued on next page



SouthWestern Association Convention

Continued from page 1

- How to identify “good” versus “bad” stress
- How to achieve more balance in their lives.

Greg Risberg, C.S.P., M.S.W., is a professional speaker who has addressed more than a half-million people in the past 20 years. He helps people learn useful ideas for handling stress better, communicating better, and finding more balance in their lives. Greg involves his audiences with funny and poignant stories that touch hearts as well as minds.



“Dealership Success Strategies” - John Spader, Spader Business Management
9:00 a.m. - Friday, Feb. 20 at American Royal Complex

Using Spader’s Total Business Success™ Model, we will cover the four distinct areas of developing a dealership.

1. Financial strength and profitability
2. Getting and keeping more customers
3. Hiring, managing and developing high-performing people.

This session will include an assessment of the dealership. This evaluation compares your dealership to key benchmarks for high performance for the people and financial sides of the business, and it identifies red, yellow, and green flags. This is designed to help people step back and look at the whole dealership from a strategic point of view. Included are actual results from a benchmark group of dealerships including metrics such as: sales per employee; gross profit per employee; and Spader’s proprietary key expense ratios.



We will cover the three types of growth curves:

1. Market-driven growth
2. Employee-driven growth
3. Management-driven growth

A Few Facts:

- 20% of employees are in a job that “fits”
- 50% of all managers fail
- 75% of all employees are looking for a new opportunity

More convention information will be available in the coming weeks. If you have questions, please contact Olivia Holcombe at SouthWestern Association - 816-561-5323 or 800-762-5616.



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Luis Navarro Technician

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This program is endorsed by the North American Equipment Dealers Association

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800.498.2256 or visit www.toolchex.com

Did You Know?

OSHA Compliance - 1904 Recordkeeping

Most small-to-medium-sized businesses are unaware of their responsibilities to follow certain safety guidelines that are set by the Federal Government, specifically OSHA. It is imperative that as an owner/manager you are up to speed on the requirements and you have the proper safety programs and documentation in place.

“Under the Occupational Safety and Health Act of 1970, employers are responsible for providing a safe and healthy workplace for their employees. OSHA’s role is to promote the safety and health of America’s working men and women by setting and enforcing standards; providing training, outreach and education; establishing partnerships; and encouraging continual process improvement in workplace safety and health.”

The following are important questions that should be answered by your company to ensure that all steps are being taken to comply with OSHA requirements.

Did you know that employers with 10 or more employees

are required to adhere to the OSHA record keeping rules with few exceptions?

Did you know that you should have your OSHA 300A Summary posted by Feb. 1 of each year and keep it posted until April 30?

Did you know that you should have an OSHA 301 incident report form filled out for each entry that you make on your OSHA 300 report?

Did you know that not all visits to the doctor’s office for a work-related injury are necessarily an automatic entry on your OSHA 300 log?

Did you know that even if you had no recordable injuries to list on your OSHA 300 form you must still produce an OSHA 300A Summary and have it certified by a company executive?

Did you know you must save your OSHA 300 log, your annual summary form 300A, and your OSHA 301 incident report form for five (5) years following the end of the calendar year that these records cover? **Continued on page 8**



Save Money

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Helping Dealers Succeed



Farmtrac Receivership and Failing Manufacturers: Lessons Learned – Part 2

Editor's Note: This is the final part of an article that appeared in the September issue of the Southwestern Association Flash.

In February of this year, the General Court of Justice, Superior Court Division in Edgecombe County, North Carolina placed tractor distributor Farmtrac North America, LLC in the hands of a receiver for the purpose of liquidating the company and paying its creditors. That appointment immediately diminished the value of inventory held by 285 Farmtrac dealers and, at least temporarily, made selling Farmtrac equipment illegal in many states because dealers could not provide warranties. Some dealers have been forced out of business; many others are just barely holding on.

Last month, we discussed some of the warning signs that are common for fiscally distressed companies. This month's article addresses some of the precautions that can be taken to limit a dealer's risk.

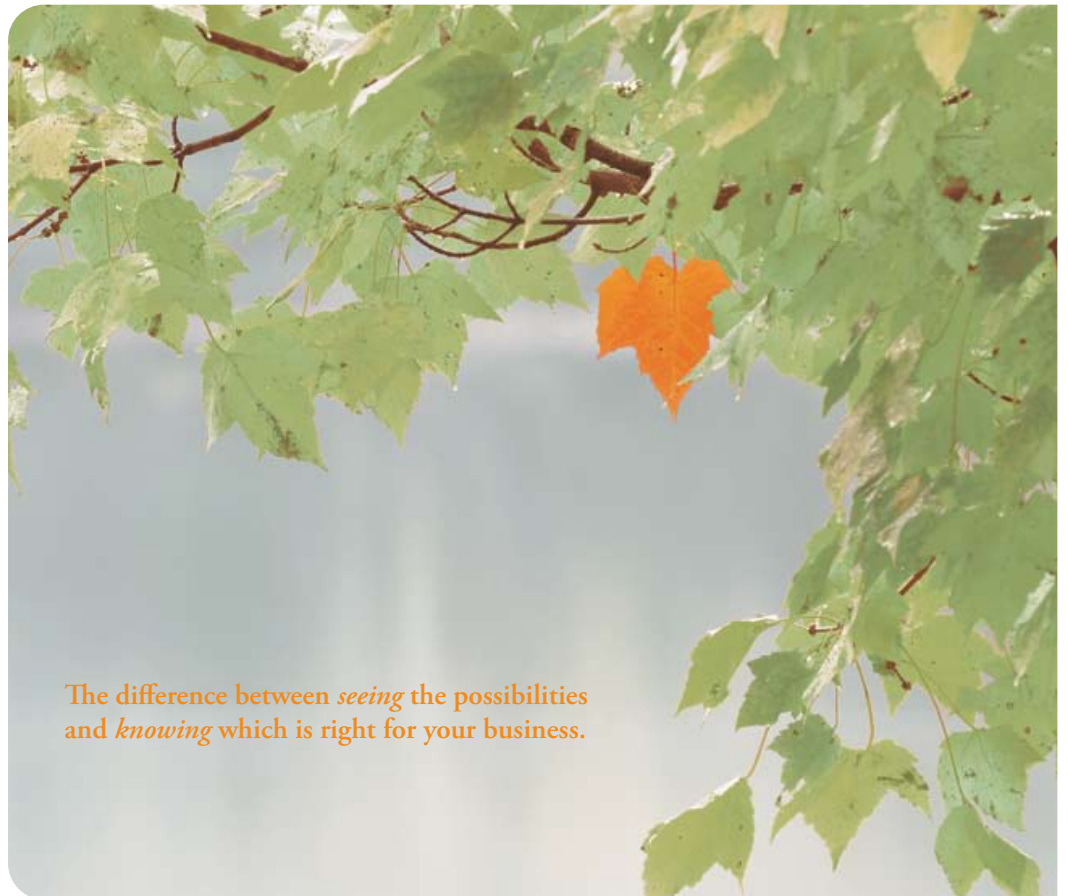
Steps to Limit Risk

There are a number of steps dealers can take to minimize their risks and evaluate the merits of a relationship with a manufacturer. The starting point is the documents. When dealing with both manufacturers and lenders, relationships with people, unfortunately, should be ignored. In this day and age of opportunistic movement from one employer to another, the document is the one constant and will remain in place long after the friendly territory rep. has moved on. New management will never care about past promises – the document will be the sole basis of any continuing

relationship. With that in mind, here are a number of specific things to look for that may help a dealer avoid a difficult situation. Nothing is foolproof, but these should help.

- **Prefer manufacturers that provide their own floor planning.** This approach is not without concerns, but it creates less risk to the dealer. As a second alternative,

Continued on next page



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Farmtrac Receivership - Part 2

Continued from page 4

use a floor-planning company that does not lend to the manufacturer. That lender could be a large financing company or it could be a dealer's local bank. Be wary of any program that requires a dealer to use a specific lender. These captive programs are more risky than programs that require a floor planner to compete for business.

- **Refuse to provide an irrevocable letter of credit.** The lender/dealer relationship is one-sided in favor of the lender to begin with. Agreeing to a letter of credit places a dealer at the mercy of a lender and allows a lender to virtually wipe out a dealer with one phone call. No lender will ever negotiate when there is such an imbalance of power. A lender is most likely to require a letter of credit when the lender determines that a dealer lacks the resources to complete the deal. If a letter of credit is required, that is a strong sign that a dealer should walk away from the relationship.
- **Resist the so-called "requirement" for a personal guaranty.** The simple fact is that dealers have more to offer than they believe they do. If the market is particularly important to a manufacturer, some requirements may be waived. This is particularly true for dealers in areas where a manufacturer is not currently selling. When a dealer shows a willingness to walk away from a deal, many times a "requirement" simply goes away.
- **Negotiate the terms of the dealer agreement and financing plan.** Dealers are routinely given form contracts and asked to sign on the dotted line. Dealers do not, however, have to accept everything. Agreements are rarely true "take-it-or-leave-it" propositions. If a provision is troublesome, ask to have it removed. If a manufacturer or finance company will not remove the provision, then walk away. Sometimes the best deals are the ones that a dealer doesn't make.
- **Tailor the agreement narrowly to meet the specific purpose.** For instance, if a floor-plan lender is providing financing to allow a dealer to buy specific equipment, then the corresponding security agreement should match the purpose. A security interest in the equipment that was purchased using floor-plan financing is perfectly appropriate. Any security interest in other inventory, a dealer's repair stock or the land where a dealership sits is over-reaching by the lender and should be rejected.
- **Monitor the financial health of both the manufacturer and the lender.** Lenders routinely ask dealers for updated financial information. It is both fair and appropriate for dealers to ask manufacturers and lenders alike for certified financial information. If a company is publicly traded, then much information will already be

available on the Internet. When dealing with a conglomerate, ask for the financials from the division that you are dealing with. The simple fact is that spotting diminishing financial health early may provide either a warning sign to avoid a problem or a signal that opportunities are on the horizon.

Sometimes the best deals are the ones that a dealer doesn't make.

- **Ask to see the financing agreements between the manufacturer and the lender.** There is always some type of reporting requirement and the lender is usually intimately involved with the manufacturer's business as a legitimate way to protect its investment. As a result, most financing companies have far more knowledge about the manufacturer than any dealer can. A lender can see sales trends and know whether shipments to dealers are meeting market demand or are just swelling dealer inventories. Dealers can understand their own markets but only manufacturers and their lenders have enough information to determine the overall market for the manufacturer's products. Agreements between lenders and manufacturers sometimes include authorization for manufacturers to make promises regarding financing. Knowing what a manufacturer is authorized to do may help a dealer spot a promise that a manufacturer can't keep.
- **Be wary of floor-plan programs that include no reserves regarding payments to manufacturers.** If a floor-plan company functions as a mere ATM for a manufacturer and pays each invoice in full, without reserves, there are legitimate concerns that the manufacturer will focus primarily on getting equipment on dealer lots rather than in the hands of consumers. The floor-plan program must reward manufacturers for sales to the consumer through the release of reserve funds or something similar.
- **Be wary of floor-plan programs that finance the invoice price rather than the actual price.** If manufacturers are paid the full invoice price without regard to the incentive programs financed by the manufacturer, a dealer's floor plan overstates the true debt and places a dealer at greater risk when a manufacturer goes under. The dealer has negative equity

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Farmtrac Receivership

Continued from page 5

in its inventory immediately when equipment is delivered and this upside down position worsens when a manufacturer fails. Floor-plan companies do not care about the problems they create by paying full invoice price and expect dealers to pay the full balance on their accounts, plus the additional interest and other charges. Creating the problem does not diminish the floor planner's desire to collect additional profit.

- **Be wary of deals that sound too good to be true.** For instance, Farmtrac lured dealers into accepting unordered inventory by promising that the equipment would be interest free and would not become due until sold. Few floor-plan companies would honor the terms promised to dealers absent several years in court to determine whether a floor planner is bound by these promises. It is better to avoid the question altogether.

Similarly, Farmtrac offered "not even zero" financing to consumers. Farmtrac promised to rebate all interest on consumer loans and even rebate more than the actual interest. Now, many dealers are faced with resentful customers.

I have talked with one Farmtrac dealer who was also offered a substantial discount in exchange for paying cash in advance. While this was not a particular method used by Farmtrac, there are other struggling manufacturers who use this tactic to essentially borrow dealer money to finance current operations. Once the money is gone, these companies are unable to complete their promises. The promise of the pre-pay discount may be simply too good to be true.

- **Make sure that the people making the promises are the same people who are responsible for keeping the promises.** When a manufacturer promises financing terms, but financing comes from another company, be suspicious and demand proof. Don't be lured in unless you are provided something in writing from the financing company adopting the terms. While it may be possible to establish later that there was enough authority extended by a financing company to make a manufacturer's promise binding, proving authority is an expensive proposition and requires a great deal of effort and time. Avoid questions and document both the promises and the means that will be used to keep the promises.

There is no way to eliminate all risk associated with inventory financing. The starting point is to carefully read the documents provided and remember that no one will care what was promised by any representative. The documents will

continue in effect long after memories fade and employees move on to other companies. If the documents contain unacceptable terms, then a dealer must be willing to say no. Dealers have more power than many of them believe and walking away from a bad deal is far better than agreeing to unacceptable terms just to get a deal done. Dealers can and should demand fair contracts.

Workforce Development

SouthWestern Association Online Campus

SouthWestern Association has introduced a new program, The SouthWestern Association Online Campus. This program makes it possible for dealers to train their entire staff quickly and efficiently without ever leaving the dealership.

Programs can be used for training, coaching, refreshing learning, performance support, promotion paths and meetings. These courses are available on your computer 24 hours a day, seven days a week. Members purchase a subscription to the SouthWestern Association Online Campus. (Pricing is based on the number of employees at all your locations.) Then, all your employees will have access to the campus materials. We'll issue a unique password to each staff member. SouthWestern Association will help you set up a curriculum for new hires or specific positions.

Proven Results

Real companies similar to yours have shown outstanding results by using online campus technology. One company with 175 employees got these results over an 18-month period:

- Increased sales and profits
- Reduced product returns by 10%
- Improved customer and employee satisfaction
- Reduced employee turnover by 33%
- Reduced training costs
- Compliance with state and federal law

For more information about the Online Campus and other workforce development opportunities through SouthWestern Association contact Nikki Bloemendaal, Director of Education at 1-800-762-5616 or e-mail nicole@swassn.com.

Shipping Spray Paint by Air Can Be Costly

A member of SouthWestern Association had an incident this year that could cost them a large chunk of change. We are sharing their story to create awareness and keep others from similar hardship. The member company shipped an equipment part by UPS Air Transport. The parts guy threw in some cans of spray paint so the customer could paint the part after it was installed. One of the cans of paint somehow had a release inside the box before the box ever reached the plane. The box was rejected and not loaded on the airplane.

DOT's Federal Aviation Administration (FAA) showed up at the member's place of business the very next day. FAA explained to the member what happened. The member was instructed to fill out a stack of paperwork. The parts guy also had to fill out paperwork because he was the one who put the spray paint in the box.

Approximately four months later the member received a letter from the FAA with a fine of over \$47,000 for all their DOT Hazmat violations according to FAA rules.

The fine is a "proposed" penalty and is negotiable. They were advised to set up an informal conference to explain their side of the story. It is best NOT to request a formal hearing, which involves lawyers for both sides and can become drawn out and end-up costing a lot of money in the long run.

The member explained to FAA that they are in the implement business, not the transportation business and had no awareness that an aerosol paint was considered a hazardous material nor that shipping it with a part subjected their company to any DOT Hazmat regulations.

Written Policy Developed

Now that the member company is aware, they have developed a written company policy that clearly states no employee is to ship aerosol paint cans, or any other type of paint or can or canister of any substance by road or air transportation. All employees have been trained on the company policy and the company policy is on-file. All new employees will be trained on the company policy before they begin work at the member company. This helps to ensure the incident never happens again.

This member has been working closely with the SouthWestern Association to help make sure all the implement businesses in the association are aware of the DOT Hazmat shipping regulations so members can make an informed decision to either NOT ship in this manner or know all the DOT regulations that apply to their business in order to ship paint canisters by ground or air in compliance with these regulations.

Proposed Violations

1. Hazardous materials were not properly classed, described, marked, labeled, and in proper condition for shipment.
2. No shipping paper included with hazardous materials, with:
 - a. Identification number
 - b. Proper shipping name
 - c. Hazard class or division number
 - d. Total net mass of the material
3. Failed to properly label the package.
4. Failed to provide emergency response information and emergency response telephone number.
5. Employees were not trained on DOT hazardous materials.

There were more proposed citations and the member now has a date set for an informal conference with the FAA to state his case. We hope the FAA will reduce their proposed fines for the member. For more information about whether these DOT Hazmat Regulations apply to your business, please contact Jenny Boeckman of RCI at 800-888-9596, ext. 213.

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OSHA Compliance - 1904 Recordkeeping

Continued from page 3

Did you know that even if you're in a State with an OSHA approved State plan that these states must adopt occupational injury and illness recording and reporting requirements that are substantially identical to the requirements in Part 1904?

Information provided by John Cano. John is Vice President/Director of Safety Services for Essential Corporate Solutions, Inc. ECS provides safety, loss control, human resources and risk management services to its wide range of clients. SouthWestern Association recommends Essential Corporate Solutions and Dispute Solutions, Inc. for your human resources, safety and ADR services. You can contact Kelly Dykes at 800-880-1722 or 972-485-5135. Website address is www.safetyadvisorycouncil.com and www.dsi-adr.com.

Missouri Minimum Wage Hike

Missouri's minimum wage will increase to \$7.05 per hour under an order issued by the Missouri Department of Labor and Industrial Relations.

The higher rate will go into effect Jan. 1, 2009, up from the current level of \$6.55 per hour. Under current law, the Department of Labor must readjust the state's minimum wage by Sept. 30. Any adjustments are based on changes in the Consumer Price Index, which increased six percent for the previous year. Thus, the agency raised the state's minimum wage to \$7.05. Some employees are exempt from the provisions, such as tipped or commissioned employees. The federal minimum wage increased to \$6.55 per hour on July 24, 2008, and is expected to increase to \$7.12 per hour on July 24, 2009. Missouri's minimum wage is expected to surpass the federal minimum wage in 2010, barring any law changes.

Federated Named to 2008 Ward 50® Top Performer

The Federated Insurance Companies has been named to the 2008 Ward's 50® list of top performing insurance companies. Federated is one of only two organizations that have had affiliated companies named to both the property-casualty and life-health Ward's® group of companies every year since 2001. The Ward Group® is a Cincinnati-based management consulting firm specializing in the insurance industry. Each year, it reviews approximately 3,000 property and casualty companies and 900 life insurance companies.



When it comes to selling used farm equipment, it doesn't get any bigger than **IRONsearch.com**. Over 235,000 potential customers a month at any given click.

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Answers From AgCareers.com



Using the AgCareers.com and SouthWestern Association Partnership for Recruitment
 AgCareers.com is the leading online job board for agriculture, food, natural resources and biotechnology.

Using the AgCareers.com and SouthWestern Association Partnership for Recruitment

What's Included:

- Free online job postings – 48 association members are currently using AgCareers.com and receiving an average of 231 views per job
- Search AgCareers.com resume database – more than 450 new resumes added each month.

Is There Such a Thing as Work/Life Balance?

Suggestions from AgCareer.com president, Eric Spell:

- Trust! Trust your staff/team to take care of things while you're away and that it will be there when you return.
- Start a tradition! For the past three years I have surprised my wife and family by planning a surprise vacation – not only have I grown to look forward to this tradition, but they REALLY look forward to it.

- Look at the back burner! Make a list of two-three things to talk about while on vacation – things that keep being placed on the “back burner.”

For more information contact your AgCareers.com rep, Beth Hales, by email: beth.hales@agcareers.com or phone: 800-929-8975 and mention you are a SouthWestern Association member.

Technician Training Program

SouthWestern Association has partnered with the OSU Institute of Technology in Okmulgee to establish a training program for equipment dealership technicians. Students enrolled in the program are sponsored by equipment dealers in the SouthWestern Association territory. For more information on the program contact: Tag Webb, SouthWestern Association Regional Manager - 918-232-2830; Steve Doede, OSU Institute of Technology Dept. Chairman - 918-293-5392 or Jeff Flora, CEO, SouthWestern Association, 800-762-5616.

Energy Market Update - 10/21/08

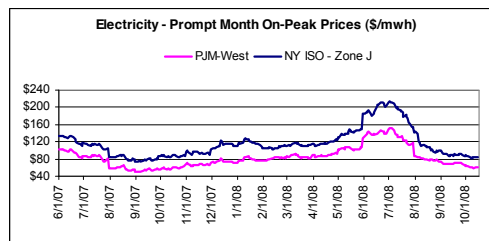
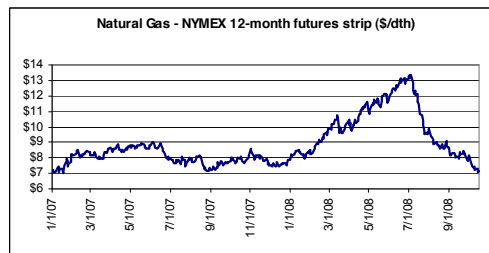


With the turmoil and uncertainty in the financial sector and on Wall Street, organizations are seeking, now more than ever, ways to mitigate risk and reduce operating expenses. Affiliated Power Purchasers International (APPI) can provide solutions that will effectively lower your energy and utility costs, decrease/eliminate operating risks, and create budget certainty with no upfront costs. APPI has a twelve-year proven track record of due diligence of energy suppliers and utility vendors, review and recommendation of supply contract terms and conditions, and a competitive bidding process that combined, give your organization the competitive edge it needs to function most effectively in the dynamic and volatile energy and utility markets.

The APPI website, www.appienergy.com, provides testimonials, state updates, and descriptions of APPI's services. For more information, please contact APPI at info@appienergy.com or 800-520-6685.

Natural Gas Futures Prices (\$/dth) NYMEX Settle on October 16, 2008					
	2006	2007	2008	2009	2010
Jan	\$ 11.431	\$ 5.838	\$ 7.172	\$ 7.215	\$ 8.315
Feb	\$ 8.400	\$ 6.917	\$ 7.996	\$ 7.270	\$ 8.315
Mar	\$ 7.112	\$ 7.547	\$ 8.930	\$ 7.155	\$ 8.125
Apr	\$ 7.233	\$ 7.558	\$ 9.578	\$ 7.010	\$ 7.395
May	\$ 7.198	\$ 7.508	\$ 11.280	\$ 7.042	\$ 7.355
Jun	\$ 5.925	\$ 7.591	\$ 11.916	\$ 7.137	\$ 7.440
Jul	\$ 5.887	\$ 6.929	\$ 13.105	\$ 7.247	\$ 7.535
Aug	\$ 7.042	\$ 6.110	\$ 9.217	\$ 7.330	\$ 7.615
Sep	\$ 6.816	\$ 5.430	\$ 8.394	\$ 7.360	\$ 7.645
Oct	\$ 4.201	\$ 6.423	\$ 7.472	\$ 7.440	\$ 7.725
Nov	\$ 7.153	\$ 7.269	\$ 6.703	\$ 7.740	\$ 7.985
Dec	\$ 8.318	\$ 7.203	\$ 6.972	\$ 8.090	\$ 8.280
Avg.	\$ 7.226	\$ 6.860	\$ 9.061	\$ 7.336	\$ 7.811

Natural Gas NYMEX Strip Prices (\$/dth)	
3-month strip	\$6.963
6-month strip	\$7.054
12-month strip	\$7.157
18-month strip	\$7.437
24-month strip	\$7.466
Nov08 - Mar09	\$7.063
Apr09 - Oct09	\$7.224



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Bucklin Tractor Implement
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Affirmative Defense Response System

Read & React: **Important Legislation**

Federal & State Legislation (HIPPA, FACTA, GLB, etc.) requiring identity theft prevention programs and setting forth guidelines and requirements have been published.

Each day that your business doesn't have an *Affirmative Defense Response System (ADRS)* increases the odds that you'll be *damaged by the theft and misuse of a customers' identity.*

Program Content

According to the Federal Trade Commission a "reasonable" plan to safeguard personal information should include:

- Designating an employee or employees to coordinate and be responsible for the security program.
- Identifying "material internal and external" risks to security of these personal data bases (with a risk assessment including employee training on the detection, prevention, and response to attacks or other system failures).
- Designing and implementing reasonable safeguards to control the risks identified in the risk assessment.
- Continually evaluating and adjusting the security plan in light of the results of ongoing monitoring and testing of the program, material changes to business arrangements, or to the company's operations, or any other circumstances that could have a material impact on the effectiveness of the security plan.
- Creating a mitigation plan. This mitigation plan should kick in when there is a privacy or security breach and there is a need to repair it immediately in the eyes of customers, government regulators, and management.

Your Association is teaming with ID Toolchex to provide this training. To sign up or request more info, just return the Reply Card below by faxing it to 801-747-3405; e-mail to idtheft@toolchex.com or call 1-800-498-2256

Affirmative Defense Response System



Please have a representative contact me to arrange ADRS Training.

Please have a representative contact me to give me more ADRS details.

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