

**TESTIMONY OF STEPHEN BIENKO**

**PRESIDENT, 42 Holdings LLC**

*Before the*

**U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON SMALL BUSINESS**

**SUBCOMMITTEE ON HEALTH AND TECHNOLOGY**

**“The Effects of the Health Law’s Definitions of Full-Time Employee on Small Businesses”**

**OCTOBER 9, 2013**

**Introduction**

Chairman Collins, Ranking Member Hahn, and members of the Subcommittee, thank you for inviting me to testify today on the effects of the health care law’s new definition of a full-time employee on a small business. My name is Stephen Bienko, and I am the President of 42 Holdings, and a member of the International Franchise Association. I own and operate an interstate and intrastate moving company, and I also own 15 franchises of College Hunks Hauling Junk and College Hunks Moving throughout northern New Jersey, as well as in the Nashville, Tennessee and Cleveland, Ohio areas. College Hunks Moving and College Hunks Hauling Junk offer residential household moves, office relocations, junk removal, donation pickups and moving labor services. I bought my first franchise three years ago in 2010 after a career as an entrepreneur and a previous stint as a New Jersey State Trooper. I’m proud of my business; it offers a service that my communities need, and flexible, secure jobs for dozens of motivated team members in three states.

As a franchise small business owner, my livelihood and my ability to provide for my team members is directly linked to the strength of the economy and federal policies enacted by Congress. Most recently, I have been studying the ways the expansive Affordable Care Act will impact my business, our team members and the company culture that supports all of it. While the one-year delay of the employer mandate gives us more time to properly implement the law, one thing remains clear: while well-intentioned, the Affordable Care Act poses a serious threat to my business' ability to continue providing a fun, enthusiastic work atmosphere and quality jobs for people who want and need them.

### **The Definition of "Full-Time Employee"**

For decades, U.S. employers have used a 40-hour workweek as a standard for workforce culture. Unfortunately, the Affordable Care Act's provision requiring employers to provide coverage to full-time employees, and defining full-time as 30 hours, will cause many employers – like me – to simply alter their employees' hours in order to run a successful small business. This puts all of us at a loss; employers must implement new workforce management methods, and some team members will receive fewer hours and reduced take-home pay, not to mention they will *still* be ineligible for employer-sponsored health coverage.

I currently have 72 employees, and 20 of those employees are part-time workers. In 2014, we are planning on adding an additional 34 part-time workers across all of my locations. Many of these part-time employees work three days per week, with 10-12 hour daily shifts. These part-time workers are attracted to our company culture because the positions offered can easily fit with their schedules, whether that includes school, childcare coverage, or other personal

commitments. During “move season,” what our industry considers the “busy period,” we typically have a large number of customers who are trying to schedule their family’s move. Many of my part-time team members will try to fit in as many as five of these shifts in order to make additional income for themselves, and in many cases, their families. Currently, it is not uncommon for a part-time team member who normally works 25-30 hours per week to double their work hours to 50-60 per week during these periods of high demand.

I currently offer a health plan to our full-time team members, but in order to manage my health care costs (which are a company benefit and a line item on a Profit & Loss sheet), I will need to limit the hours worked by our part-time team members. The simplest way to accomplish this is to limit part-time workers to only two full shifts per week. This will equal between 20 and 24 hours per week, instead of the 30-36 hours they are working now. These part-time workers will no longer be permitted to pick up extra shifts and garner additional income during high-volume “move seasons.”

### **Reduced Hiring and Expansion**

I have offered my full-time team members health coverage even without the employer mandate, and I have every intention of continuing that coverage, even as I continue to expand my business. However, the increased cost of doing business by providing coverage to employees with fluctuating schedules that only occasionally put them into full-time status will leave me no choice but to scale back my expansion plans. I consider myself lucky, because I have succeeded with an ambitious growth plan for my business over the last several years, but many small business owners are not so fortunate. Not only has the employer mandate

discouraged job creation and business expansion, it has also damaged existing jobs by including a misguided statutory requirement that discarded more than a half-century of established labor policy by now defining “full-time” as 30 hours per week.

The employer mandate will hurt franchise business workers in many ways, but one of the most devastating effects of the mandate is that fewer workers will be offered health insurance, and employees will be less able to afford their own coverage when working fewer hours. The true losers under this misguided mandate are the employees, who work day-in and day-out to provide a better life for themselves and their families.

Allowing employers to manage their workers to the traditional 40-hour work week would give employees more flexibility and eliminate the need to revamp longstanding employer personnel policies. For my part, I would be able to give my part-time employees more hours and pay them more wages, without incurring the additional cost of providing health coverage that true part-time employees are currently not eligible for.

### **Conclusion**

Without a doubt, the one-year delay of the employer mandate is an important reprieve for franchise small businesses as they prepare for ACA implementation; unfortunately, it is a short-lived solution and is far from workable in the long run. Many franchise businesses are being turned upside-down by the new costs, complexities and requirements of the law. Allowing employers to continue with the current and traditional workforce management practices provides more personal stability in a period of continued economic uncertainty and recovery. So far, Congress has seemingly been willing to listen to testimony from small business owners

about these serious challenges, but fast-approaching deadlines command your swift action to assist our nation's franchise small businesses. Business owners are already weighed down by complex reporting requirements, small business health exchanges that lack competitive options, and increased costs brought on by additional taxes and fees. The 30-hour definition is a major change that could have far reaching consequences we have not yet begun to see.

I urge the Committee to support H.R. 2575, the Save American Workers Act, and H.R. 2988, the Forty Hours Is Full Time Act to help ease the employer mandate's enormous burden on franchise small businesses. The revision of the new definition of the full-time employee for the purposes of the Affordable Care Act is a common-sense solution that will put the ACA in line with many other federal wage and hour regulations, provide small business owners such as myself with health benefit consistency, and allow for increased hours and more take-home pay for my hard-working and deserving team members.

Thank you for allowing me to testify before you today, and I look forward to answering any questions you might have.