

Zinsergram a/k/a Legal Update



**By L. Michael Zinser
The Zinser Law Firm, P.C.**

In my last column, I focused on the contracting process. This month, I want to follow up on that subject by sharing a document called the "Circulation Management Contracting Checklist."

The Circulation Management Contracting Checklist, shown below, can greatly help prove independent contractor status when executed by the Circulation Manager and contractor at the time of contracting. After reviewing this form, I think readers will agree it demonstrates that both parties entered into a contract with the intention of creating an independent contractor relationship.

Circulation Management Contracting Checklist

The following factors should be reviewed when contracting with any independent contractor newspaper carrier. After completing the item, the Circulation Manager and prospective contractor involved should place their initials by the numbered item:

1. _____ The circulation management representative reviewed the entire Independent Contractor Distribution Agreement with the prospective contractor and had him/her initial each page.
2. _____ Completion of negotiations:
 - The Company's proposed rate was \$_____.
 - The prospective independent contractor made a counter offer or counter offers of \$_____.
3. _____ The prospective independent contractor completed IRS Form W-9.
4. _____ The carrier accident insurance for independent contractors was reviewed with the prospective independent contractor.
 - _____ The prospective independent contractor completed the acceptance/rejection card.
 - _____ The prospective independent contractor was provided information explaining the coverage.
5. _____ The prospective independent contractor provided proof of vehicle insurance.

6. _____ The prospective independent contractor provided a photocopy of his/her valid driver's license.

7. _____ The prospective independent contractor provided the Company with a copy of his/her most current motor vehicle report revealing his/her driving record.

8. _____ After both parties signed the Independent Contractor Distribution Agreement, a photocopy of the signed document was provided to the contractor.

9. _____ The prospective independent contractor completed the Bond application.

10. _____ The circulation management representative provided a route list to the independent contractor.

_____ Audio tape
_____ Written list

11. _____ The circulation management representative explained to the prospective independent contractor that he/she has the right to determine the sequence of route delivery.

12. _____ The prospective contractor reads and understands the English language
_____ The prospective contractor cannot read English; however (name and address)
_____ acted as a translator.

_____ The prospective contractor cannot read English; however he/she was provided a contract in _____ language, which he/she can read and understand.

13. _____ The circulation management representative reviewed and explained a sample statement provided to contractors.

14. _____ The circulation management reviewed and explained an example of daily messages relayed by the Company to the contractor from subscribers.

15. _____ The circulation management representative specifically informed prospective contractor that he/she is responsible to pay federal income taxes and that no taxes will be withheld by Company.

16. _____ The circulation management representative specifically informed the prospective contractor that he/she, as an independent contractor, is not eligible to receive with workers' compensation benefits or unemployment compensation benefits.

By _____ Date _____
Contractor

By _____ Date _____
[Insert Company Name]