

## DIFFERENT TOPICS

Including a special article from Lance Wallach, CLU, CHFC, CIMC

### *Beware of Imported Products*

This has been a scare of late particularly with products imported from China and it relates to carpet in particular, especially with one case we have. This carpet was installed in a public venue and after a short period of time there was a question of wear. This instigated the end users and flooring contractors questioning of the carpet itself and its quality. Further examination of the carpet revealed that there were three different backings supplied with the product which raised even more concerns about how reliable this product and its manufacturing supplier were. When the dealer went back to the manufacturer they refused to entertain the complaint and washed their hands of the matter. Naturally, this frustrated the dealer to no end and he was left trying to resolve the matter on his own. We found that there are differences in the product but there is no standard for construction of woven goods, which this was, and therefore no definitive answer to whether or not the carpet was defective. Actually the differences in the product are not defects and there is an explanation as to why it is performing the way it does, but that's not the point here.

This is one case in which the dealer acquired a commercial product that he had a concern with and was left holding the bag when he had no one to turn to for support or even an answer, whether yes or no, to his complaint. Since the manufacturer is half way around the world and operating in a different culture there was not much he could do. In another case, similar but different, we evaluated carpet manufactured in China for a client that was going to purchase well over a million yards of material. The

product actually made the top tier of the products being evaluated for use and considered for purchase. It performed very well in tests and held its own against the top contenders. The reason it was not selected was service. What would the end user do if they had a concern with the product and who could they turn to for help? Certainly we could be of considerable service but we are not the manufacturer of the product. When you have a huge project it's reassuring to know you've got a reputable manufacturer to turn to for an answer to the simplest question. With products imported from so far away, no matter how good the quality, this is an issue.



Certainly this does not apply to carpet being manufactured by several reputable carpet manufacturers who have moved operations to China for a number of reasons. You would and should expect the products you're getting from these manufacturers to be every bit as good as they were when manufactured in Europe or the US. Just beware of those products that are being supplied to you that don't have a name you've been working with for years. The quality may be good and the price reasonable and that's an important point, but more important is service that you are going to want and need, especially if you have a problem. If you have nowhere to turn, you're going to be swinging in the wind all by yourself.

### *Turn around times*

Turn around time is the length of time it takes for a

floor covering manufacturer to receive an order, produce it and ship it. This time frame, depending on the product and the manufacturer, can typically take 3 to 4 weeks to 6 to 8 weeks. With the commercial business the way it is today turn around times have stretched to as much as 12 to 14 weeks, especially for some tufted hospitality goods. To say business is booming in the commercial market is an understatement. In some markets, New York City for example, flooring contractors are busier than they've ever been which presents two challenges added to the lengthened turn around times. They are the lack of installers and working the installers that they do have to the bone. Considering these issues it is important all parties involved in projects understand things are going to take longer than they have in the past – one of the painful sides of success. No sense rushing, in my opinion and having pages of floor covering punch list items if the job isn't right the first time. This is a

dangerous game that will certainly result in costly problems popping up on somebody's project, hopefully not yours.

## Labor

All trades are suffering from a shortage of qualified individuals in the commercial market. The slowdown in the residential market may have some crossover skilled labor filtering into the commercial market, some experienced and some not. Putting bodies on a commercial job that lack professional skills just to get the job done can be risky. Working with commercial floor covering products that are far more expensive, complicated and challenging to install in conditions that are unfamiliar can lead to disaster. In case after case over the years where there have been catastrophic installation failures inexperienced installers have often been the cause. Ignorance may be bliss but you don't want it on your job or project. It would behoove you to have INSTALL qualified journeymen installers on the job who have the asset of continual training under their belt. Remember that floor covering has no value until it is properly installed.

## What hides beneath the Vinyl?

This situation is increasing; complaints for inconsistencies and irregularities being seen beneath sheet vinyl and VCT after a high gloss finished has been applied. Most frequently these problems are in hospitals and schools but they are not just limited to those type facilities. You can walk into any grocery store and see trowel marks, unevenness and any other "flaw" that exists in the concrete substrate telegraphing through the vinyl flooring material. There is no such thing as a



Taking that extra step to ensure a great floor installation could mean the difference between a satisfied customer and a frustrating situation.

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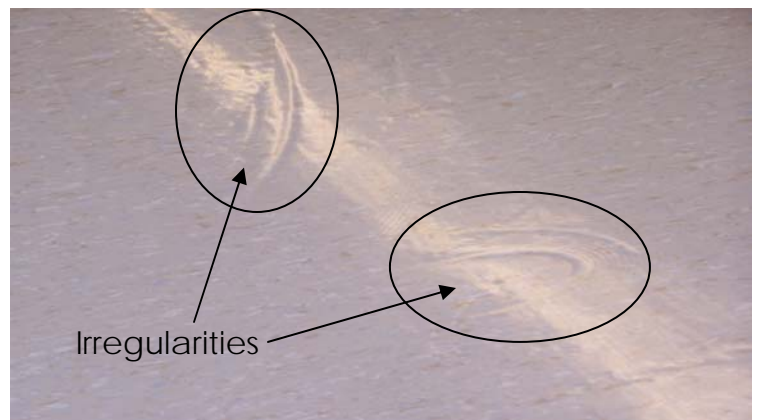
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perfect substrate and there will be some misgivings that will show through the vinyl flooring material. Let's look at one case in particular.

This is a school in which the flooring contractor asked us if there was a standard for visual acceptance of VCT. The problem they had was that the general contractor had large fans blowing while the installers were waiting for the glue to dry. Some fine debris was blown into the glue by the fans. The decision was made to go ahead and install the VCT because the debris was very small and they didn't think it would pose a problem. They informed the general contractor of this situation telling him that after the tile was installed and waxed they'd replace any tile where bumps existed from the debris and he agreed to this. Unfortunately both the owner and the Architect got involved afterwards. They inspected every tile on the floor on their hands and knees using flashlights. Any tile they questioned was marked by the installer and replaced. This was an 8,000 square foot job and 250 of the tiles were replaced. Now the owner is seeing the normal inconsistencies that exist beneath vinyl tile when there is a high gloss shine applied such as power trowel marks from when the concrete was finished; things you don't see easily on the concrete but do see in the right light telegraphing through the tile. The end user thinks he shouldn't be able to see this stuff and he is complaining that this is an installation problem.

Nothing the flooring contractor tells them seems to make any difference in their beliefs that this is installation related, they insist he's at fault. Well unless the substrate is treated with a self leveling cementitious material, which it wasn't and this was not part of the plan, you'll see things in the vinyl. The real culprit is the super high gloss finish applied to the floor. This is kind of like the Princess and the Pea fairy tale story only this story and others like it repeated across the country is a horror story. There is no standard for acceptance for this condition. What there is involves knowing what is being done, what the expectations are and then addressing any concerns with preventive measures to minimize problems. Even doing this will not prevent inevitable inconsistencies and natural undulations and substrate surface conditions from showing on the surface of a super shiny floor. Any concerns have to be addressed in writing and signed off. Words are normally forgotten unless they are chronicled. Unless there is a record of what should be and what will be all parties expose themselves to liability. Trying to resolve problems like this is like trying to get the toothpaste back in the tube after it's been squeezed out; it gets very messy and very little gets back in the tube.

### *Installation Waiver*

This subject comes up regularly – how can we as a flooring contractor



## **The Commercial FLOORING REPORT**

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avoid liability for an installation failure when we know there are compromising circumstances that could put us in harms way? First of all there is not a blanket form absolving an installer or flooring contracting firm from liability for an installation failure. Each state has its own set of rules. It would behoove you to consult with an attorney in your market who practices construction law and have him give you guidance. It is important that you include any and all situations that you think may



Moisture Related Failure

result from your being persuaded to proceed with an installation knowing there may be a problem later. For example, if you are concerned that the installation may fail because the substrate has not been tested for moisture vapor emission you not only have to include loss of adhesion, buckles, wrinkles, bubbles, seam failure, etc., but also odors, mildew, mold and anything else you can think of. If you leave one thing out it will give the potential complainant the one bit of leverage they can use to drag you into a legal action. This is a double edged sword however because any document you present for signature and sign off, prepared by an attorney and loaded with restrictions will certainly be looked at with disdain and would likely result in the General Contractor or Owner refusing to comply and possibly a "do it or else ultimatum". At this point you

may put yourself into another situation of not complying with any contract or agreement they have with you. This is why you should consult an attorney who works in the construction field. They will know how to handle this and can guide you and show you the best way to proceed in these situations. There is no pat answer and there is no single universal form that everyone can use. The flooring contractor, considered to be the flooring expert, has to be aware of any situation that will cause a potential failure and voice that concern. Very often, if you have a good relationship with the general contractor and can provide them with convincing information available in the industry that will enlighten them; it may be enough to keep all of you out of trouble. If no one will listen and you need help you can call us.

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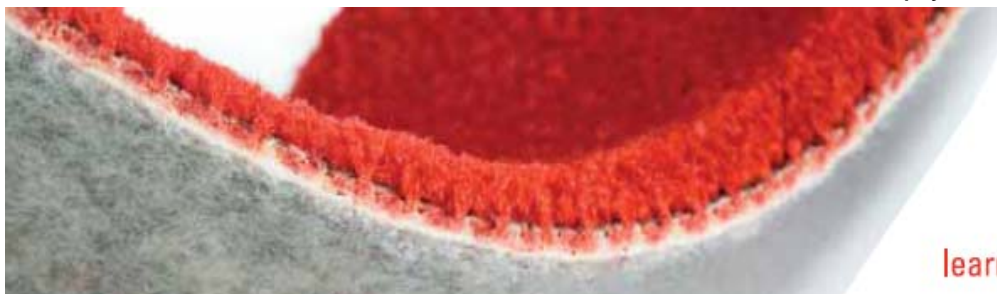


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## Welfare Benefit Plans – Anyone? By Lance Wallach



Substantial tax reduction, estate planning, and asset protection - Welfare Benefit Plans, anyone?

Do you pay too much income tax? Are you interested in protecting your assets from creditors? Would you like

incredibly large tax deductions every year? How about providing financial security for your family while minimizing taxes? Sound interesting? If so, you should consider utilizing a Welfare Benefit Plan. All contributions are tax deductible and money can come out tax free for certain benefits.

Profitable businesses looking to substantially reduce their tax liabilities and provide other benefits can utilize a Welfare Benefit Plan.

Although they have been in existence for years, Welfare Benefit Plans (WBPs) are not well known or understood. They allow an employer to receive a current tax deduction while putting away funds that are not currently needed. They also give the employer a great deal of latitude in choosing plan benefits.

Welfare Benefit Plan assets are protected from the claims of creditors, the amounts in which contributions are made can be flexible, and benefits are highly favorable to the business owner. Additionally, a Welfare Benefit Plan can allow you to deduct life, health, disability and long-term care insurance and solve retained earnings problems. An employer can maintain both a retirement plan and a Welfare Benefit Plan simultaneously.

A Welfare Benefit Plan allows larger tax-deductible contributions than a 401(k) plan because it is not subject to strict pension plan guidelines.

The problem with retirement plans is that, live or die, when the money comes out, it is taxable. Who says that you will be in a lower tax bracket when you retire? When you die, not only will your retirement plan money be subject to income taxes, but if you are successful, the money would then also be subject to estate taxes. Money in a WBP can come out income and estate tax free. It's

never too early for successful business owners to think about these things.

You also need to be careful.

There are numerous plans being sold that look like WBPs that may get you into trouble with the IRS.

And now for an IRS secret.

There have been some significant changes in the way the IRS targets businesses for tax audits, and how it conducts them. When you read statistics about the percentage of returns that are audited, you might feel justified in playing the odds that your business won't be among those selected by the IRS for scrutiny. Audits are up this year and will continue to increase, but the numbers are very misleading, because the IRS is getting a lot smarter about how it chooses returns for audit and how its examiners conduct their audits.

Over the past few years, the IRS has dramatically stepped up its efforts to study specific industries, and to educate its examiners about business practices, terminology, accounting methods, and common industry practices. It has also identified areas of inquiry that produce audit results. Examiners are told specifically to look out for certain red flags to get at what is really going on in a business or transaction.

The result is that examinations are more sharply focused on potential areas that will generate increased taxes, penalties, and interest. Fortunately, there is a positive side to all of this. The IRS has made public a number of its Industry Specialization Program papers and Market Segment Specialization Program manuals. These help us keep up on the areas that the IRS will be targeting in its audits. So far it has issued detailed audit guide information on a range of industries, from general ones, such as retailing, to more specific ones. Much more information on specific industries is expected to be issued as the IRS continues to devote resources to the development of these programs.

*Lance Wallach speaks and writes extensively about WBPs, retirement plans, and tax reduction strategies. He speaks at more than 70 conventions annually and writes for 50 publications. For more information and additional articles on these subjects, call 516-938-5007.*

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