

TempWorks has Warts!

I received an email informing me that my social media campaign was mentioned in a speech given at a TempWorks user conference by their President & CEO, so I checked it out. TempWorks is advertising the speech given by their President and CEO on this site and others if you'd like to hear it in its entirety, but the following is the portion that relates to my inclusion (beginning 13:13):

"Despite these successes, all hasn't been perfect. All businesses have their warts. If we didn't, anyone could do our jobs. A year ago we faced the challenge of a funding customer who, despite our best efforts, fell short of the acceptable risk level that we're willing to bring into our organization. Despite apologizing to that person that we weren't able to do more to help him, he took it upon himself to launch a social media campaign called beware of Tempworks dot com. So while attendees of The Works typically represent the most loyal segment of our customer base, it's still important for me to let you know that the gentleman operating these sites is not your peer. If you look to your left and to your right, you're looking at someone who is involved in one of the country's most successful staffing companies. This site is run by someone who has not worked in staffing for five years, has nothing but time on his hands, and I've chosen not to publicly engage with him."

I don't have a problem being alluded to in the speech. In fact, I appreciate the plug for my site. I have a feeling that most TempWorks customers have already seen my site. I assume that most prospects have seen my sites if they conduct (even) cursory research on TempWorks. Many of them contact me. I would assume many ask the folks at TempWorks about it. I'd wager that what was said in the speech - or some reasonable facsimile thereof - is generally employed by TempWorks' employees to try and explain away my efforts. *"We had someone we couldn't help despite our best efforts. We decided to walk away from him. We felt bad, but it was a business decision. We apologized and, unfortunately, he didn't accept that and now has started a social media campaign against us."*

That *sounds* reasonable. Maybe the prospects believe it. Maybe they don't actually look at the public information provided on this site from various Minnesota courts and the public information about specific court cases. If they don't contact me, I have no real way of knowing. Since day one I have pursued a singular mission with a singular objective: to give anyone considering partnering with TempWorks the most complete and accurate information upon which to base their decision. If any company signs a contract with TempWorks I want them to do so knowing what this company has done to so many of their clients. At least they will have had what I never did - the truth and full disclosure.

To that end, I will specifically address the prospects that Mr. Dourgarian claimed were in attendance when he gave that speech as well as any other companies who might consider partnering with TempWorks. If

you believe that I am simply someone who TempWorks made a business decision to walk away from after giving me their best efforts and I simply refuse to accept their apology, then please allow me to set the record straight.

I was informed on Friday afternoon before the first temps were going out on Monday that TempWorks had made a decision to “not move forward with my company”. I asked the gentleman who told me (Bob Pugliano) why that decision was made and he said that he had not been told by the CEO (David Dourgarian) or the COO (Mari Kautzman). I testified to this in court and was found credible.

Not only did I not get an apology, but nobody at TempWorks corporate office would even take a call or respond to an email to inform me why they walked away at the eleventh hour. David Dourgarian says in a speech in front of clients and prospects that he apologized, but at deposition with no customers or prospects in the room he admitted that he didn't give me any reason whatsoever and that it didn't matter. In fact, he testified that he didn't think they even owed me an explanation of why they walked away and, with the benefit of reflection, still doesn't think they owed me so much as a reason why. Some apology! Some 'best effort'! The following are taken from Mr. Dourgarian's deposition:

(Dourgarian) I have no idea. He wasn't -- I wasn't taking his calls. But he left -- sorry. He left missed calls for me three or four times that morning.

(Attorney) He had people going out on Monday

(Dourgarian) I have no idea what he had. I didn't take any of the calls

(Attorney) It didn't matter to you?

(Dourgarian) No.

(Attorney) Did anyone ever tell him what it was?

(Dourgarian) Probably not

(Attorney) Why not?

(Dourgarian) We were busy with other clients.

(Attorney) Too busy for Mr. Stemm?

(Dourgarian) Yes

(Attorney) Again, the company didn't think they owed him an explanation?

(Dourgarian) No we didn't.

(Attorney) Do you still think that?

(Dourgarian) Yes.

It is probably worth noting that their 'business decision to walk away' took place after TempWorks was unable to produce a Certificate of Insurance for me the previous four days. If you are in staffing, you know that a COI takes as long to produce as the time it takes to type a business name on it and send it out. The only thing that would preclude an ability to produce a COI is the lack of a valid work comp policy in the state I needed it. I was told during the sales process that TempWorks had many clients in Indiana. At deposition it was revealed they didn't have any at that time. As to the claims that I presented an unacceptable risk level, I was exclusively doing allied medical and dental placements with clients I had done business with for two years at a different organization. The cost of the codes were .35 / \$100 and I had years of A/R records to show that my clients paid and paid quickly. In short, there was no risk whatsoever. The judge agreed and even said as much:

The court finds that Tempworks canceled the contract not because of any risk to the company but because they believed it would be inconvenient and possibly more expensive to perform, and incorrectly believed that it could simply step away from a contract that it no longer liked.

It is also worth mentioning that I was not inspired to start a social media campaign because I was simply unwilling to accept an apology. I had to fight TempWorks in court for two years because they were unwilling to refund my investment with them, which is all I asked for initially. In the speech, the CEO talks about his business having ‘warts’ and offers as illustration of that a single, albeit fabricated, anecdote about what happened to me. I did not, however, hear anything about these activities:

ARA, Inc., the funding arm of TempWorks, was sued by six former employees for running their credit histories without authorization or consent. TempWorks settled this out of court and required non disclosures to keep it out of the public eye.

A Maryland staffing company sued TempWorks for, among other things, refusing to honor the agreement and over billing. The case was settled by TempWorks to avoid court. I haven’t yet written about this in my LinkedIn series, but I will.

My company sued TempWorks Management Services, Inc. in 2013 for illegally breaching my contract. I won a judgment against them. In the 2015 written judgment, the judge found President & CEO David

Dourgarian, COO Mari Kautzman and Executive VP Casey Kraus all to have given testimony under oath that was not credible.

“The court does not find Dourgarian’s explanation of why he terminated the contract reasonable or credible.”

“The court finds Kautzman’s testimony was not credible that she had resolved the problem Friday morning, given that Sepsey was still waiting for the contract and letter from TMS.”

"The court does not find Kraus’ testimony that he knew nothing of the workers’ compensation problem credible because he had participated in the email chain the day before and complained about the proposed resolution."

"The court does not find Defendant’s explanation credible. Instead, the court finds that Tempworks had an ulterior motive for terminating the contract....."

If they are willing to lie under oath, imagine the carte blanche they give themselves to fabricate reality in speeches and sales pitches!

A Miami staffing company sued the entire TempWorks brand in 2014 for, among other things, illegally breaching the contract and attempting to interfere with their business via TempWorks' own staffing company, TMS Staffing. A jury found TempWorks guilty of illegally breaching the contract. President & CEO David Dourgarian, COO Mari Kautzman and TMS Staffing CEO Doug Greene were all found guilty of making false statements about their client to a 3rd party. In fact, David Dourgarian was personally found guilty of defamation with malice

against his own client and ordered to pay restitution. That wasn't in the speech. This case is being appealed for additional damages and is ongoing at present.

An Arizona staffing company sued ARA, Inc. in 2015 for, among other things, illegally breaching the contract and holding their data hostage. TempWorks was found not guilty of these charges. However, public records reveal that David Dourgarian stole money from the IRS account of his client and illegally transferred it to his own IRS account. He got caught and the IRS ordered him to return the money, with interest.

A Wisconsin staffing company sued ARA, Inc. in 2015 for over billing and holding data hostage. If you read the cases, you'll see that's a common theme. This case was settled by TempWorks to avoid court.

An ex-employee of TempWorks sued them in 2016 for wrongful termination. The case was quickly settled to keep it out of court.

A California company sued TempWorks in 2016 for, among other things, **holding data hostage**. The case was settled to avoid court.

A Carolina staffing company served TempWorks with notice of an intent to file suit in 2015. TempWorks pre-emptively filed suit against the Carolina company ONLY AFTER the staffing company refused a settlement offer which made non-disclosure and removal of negative online reviews mandatory. (Now you know why these victims can't write reviews online of TempWorks or even speak about TempWorks). According to court documents, TempWorks

surreptitiously deposited money into the client's account and then filed a lawsuit against the company claiming that they had already paid them in accordance to an earlier agreement. The client called their bluff via an attorney who had already beaten TempWorks in court and knew how they operated. Spooked, TempWorks must've made an even better offer as this case was settled to keep it out of court.

There is another staffing company who filed a lawsuit against TempWorks Management Services, Inc. d/b/a TMS Staffing, TempWorks Software, Inc. and DDE, Inc. just last month. The contract case was filed in Hennepin Civil court on 06/21/2016. I am awaiting the documents from this action, but I suspect given the players involved it will be a very familiar read.

Understand that these are not all of the lawsuits filed against TempWorks nor do these account for the eight clients that they have filed lawsuits against.

These are not 'warts'. Breaching a contract without notice or explanation is not a wart. Lying under oath in an attempt to avoid responsibility for wrongdoing is not a wart. Stealing money isn't a wart. Making false statements about a client in order to try and take over their business isn't a wart. Defaming a client with malicious intent isn't a wart. Warts are unsightly and unfortunate, but they are not intentional. The aforementioned were deliberate, intentional acts that TempWorks was found guilty of in a court of law and ought to serve as major red flags to any company contemplating a business relationship with them. If TempWorks is willing to lie under oath then you

realistically have no expectation of honesty whatsoever, especially if your organization represents potential revenue to TempWorks.

These are not 'warts'. Breaching a contract without notice or explanation is not a wart. Lying under oath in an attempt to avoid responsibility for wrongdoing is not a wart. Stealing money isn't a wart. Making false statements about a client in order to try and hurt them and overtake their business isn't a wart. Defaming a client with malicious intent certainly isn't a wart.

As for the personal references, that is of little concern to me. This isn't about me. I'm just a voice. But make no mistake, I am your peer. I am your colleague and my voice speaks directly to you. I'm a voice for you because nobody was a voice for me. Some of what Mr. Dourgarian said about me is true. I haven't "officially" worked in staffing since 2012 when I left my former employer. I was supposed begin making placements for my own staffing company - the company that contracted TempWorks - on October 1, 2013. I had spent the preceding several months traveling, planning, onboarding and training with TempWorks getting ready to make those placements only to be told on Friday, September 29th, 2013 that TempWorks "was not moving forward with my company." Given that I was totally self-funded, I had to get through the trial and get my investment back before I could start anew and TempWorks and their attorneys fought me every step of the way for nearly two years.

Admittedly, and unapologetically, I'm took my time. During the litigation and up until last month I chose to support my wife by being a stay-at-home dad to my children. My wife and I are very fortunate that we had that option. Doing so has allowed me to spend time with my kids at a point in their lives that most working parents unfortunately miss. I

don't look at that as anything other than an immense blessing and it's not something I was in a tremendous hurry to give up! Speaking of.....

As a stay-at-home dad to my 4 year old daughter and 2 year old son, I take umbrage with the notion that I have "nothing but time on my hands." Of all the misguided statements that Mr. Dourgarian has made since I began paying attention, this is unquestionably the most foolish. As anyone who has children already knows, time is the one thing that you simply never have enough of!

Lastly, I fully understand Mr. Dourgarian's lack of interest in publicly engaging me. I don't blame him. The truth is damning to his organization and lies can be exposed with unbiased, official court documents. That said, I'm sure he says that to give his audience the appearance that he is the bigger person and that he is above that sort of thing. If that were true, that would be respectable. But like so much of what Mr. Dourgarian says, it seems to be in stark contrast to reality. Instead of directly engaging me, he chooses instead to take veiled shots at me by tweeting videos that denigrate stay-at-home dads with the comment "I couldn't agree more". Sophomoric and petty as it is, I think nothing more aptly serves as an illustration of the content of character. Then again, I'm betting he'd claim it a mere coincidence that nothing to do with me.

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To all TempWorks prospects, I simply urge extreme caution and recommend thorough due diligence! Do your research outside of the echo chamber and weigh all of the unbiased public information void of any potential embellishment available to you. I will leave you with one of my favorite quotes that I find especially prudent:

"Characterize people by their actions and you will never be fooled by their words."