



Rutland Beard Floral Group

Testimony Of Rutland “Skip” Paal, Jr.

Before the Subcommittee on Health, Employment, Labor, and
Pensions of the House Education and Workforce Committee

April 14, 2015

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Mr. Chairman and distinguished Members, thank you for inviting me to present testimony before the Committee regarding my company's experience with the Affordable Care Act.

I am pleased to testify on behalf of the Society of American Florists. SAF was chartered by an act of Congress in 1884 and is the only national trade association that represents all segments of the U.S. floral industry. Its 7,000 members are the industry's top retailers, growers, wholesalers, importers, manufacturers, suppliers, educators, students and allied organizations.

I am a fourth generation florist. In 1923, my great grandfather opened a flower shop and greenhouses outside Baltimore where he grew and sold flowers and plants. My grandparents took over the business in the 1950's and ran it until my parents took over in the 1970's. When I joined the business in a full-time capacity in 2002, our family owned two retail flower shops and had just under 20 total employees, of which 8 were considered full time.

Soon thereafter, I realized there was an opportunity to grow our business by acquiring additional locations. In 2007, I purchased my first location and have continued acquiring retail flower shops since. In 2009, we expanded beyond traditional retail to include a wholesale florist and import division. Today, my companies employ over 150 people and operate at 11 different locations in Maryland and New Jersey, including my great-grandfather's original location outside Baltimore.

My grandfather instilled ideals in me regarding the way we do business. We are a family business; our employees are our extensions of our family. We have been at weddings together and funerals together. Even though I have no actual relatives working in the business now, I have always felt as though I have a number of brothers, sisters, aunts, and uncles working with me because these folks are treated and valued as members of our Rutland Beard family. Some of them have even known me since I was a toddler. As a part of this philosophy, we have always felt that we have an obligation to take care of our employees just like they were family.

We have been providing health care to our full-time employees for decades. For many years, we paid 100% of the cost of health insurance. As health insurance costs continued to climb in the early 2000's, we contributed as much as possible, but capped our contributions at \$300/month. Even through the recession, when I and other family members skipped paychecks for ourselves, we still contributed to our employees' health care – not because we had to, but because it was the right thing to do.

Our support of our employees goes beyond health care. Shortly after I joined the company, one of our lifelong employees retired from service, after spending over 40 years as a sales clerk with the company. When she retired, her plan for retirement was to live on Social Security. Within months of her retirement, we established and began company contributions to a SIMPLE IRA plan so that our employees would have the opportunity to retire with something to

show for their years of service. We established this retirement plan not because we had to, but because it was the right thing to do.

If someone dedicates a career of service to our organization, it is only right that we take care of them as best as we can. Last month, I gave a plane ticket for an employee to spend some time with her daughter because she will be missing her daughter's graduation from college to work for us during one of our peak times. I didn't do this because we had to – in fact the employee didn't even ask for it – I did it because it's the right thing to do.

When we look at the numbers, my companies employed a total of 152 individuals over our most recent measurement period. Of this total, 28 would be considered full-time under the Affordable Care Act, 85 would be considered part-time, and 39 would be considered temporary.

In our business, we hire a number of employees who help us during the peak floral holidays of Valentine's Day, Mother's Day, and Christmas, as well as extra help during peak wedding season. It took me over 40 hours to collect all of the data on our employees' hours of service, create spreadsheets, perform calculations, select appropriate plans, and make offers of coverage. In the past, this process took me about an hour of meeting with our health insurance broker. Since my company is not large enough to have a human resources manager, this responsibility falls to me.

As an employer, I would improve our bottom line if I did not offer coverage to my employees. Under our most recent measurement period, my companies have a total of 51 full-time equivalents (FTEs) (53 if including temporary employees). Even though this qualifies me as a "large employer" under the ACA, if I were to refrain from offering health care coverage for any employees, my penalty would be zero, since I have only 28 actual full-time employees. This would result in a savings to the company of over \$60,000 a year. However, we continue to offer the coverage because it's the right thing to do.

The ACA has provided numerous challenges to my company and me. For the past several years we have operated in a constant state of the unknown. We have sought advice from our professional advisors – our accountants, our insurance brokers, our payroll company, and our trade association – but at the end of the day we still are unsure of what our full obligations will mean for our company and our employees, or even if we are doing the right things. It seems as soon as we have some clarity on an issue, we come to realize that it was only a temporary extension or that we were guided in the wrong direction to begin with. I believe that we know what we should be doing right now, but have no idea what to plan for because we don't know what changes to legislation or regulations will bring next year or beyond.

In addition to the challenges of record keeping, reporting, and other compliance issues, the looming unknown cost of insuring future employees has made me apprehensive of continuing to expand my business and hire new employees.

As I have grown my business over the past 10 years, I have been able to plan accurately for revenues and costs. Rents are a known variable, as are vehicle and supply costs. Cost of goods is relatively easy to budget accurately. Payroll expenses can be easily calculated and budgeted. However, the increased expenses in health care and complying with the ACA, has caused me to not to expand further. When examining an acquisition, I must take into account the added cost of health care that the previous owner did not provide. In fact, in every single acquisition that I have made, the previous owner did not provide health care benefits to the employees. Not knowing what this cost will actually be makes me cautious of pursuing many new acquisitions.

Far more concerning than adding health care costs for employees when acquiring a new business, is that I am placed at a disadvantage against my competition for hiring and retaining good employees because of the cost of insurance. The actual employer's cost to insure a full-time employee on our health insurance policy ranges from \$107 to \$322 per month, depending on the age of the employee. This amount does not include the employee's share. This creates a potential compensation obligation in upwards of \$2.00 an hour that ACA-defined "small employer" competitors do not incur. This burden places me at a disadvantage since many other employers are not required to offer coverage to the same individual and can therefore afford to entice them with a higher salary.

For an hourly-based employee making \$14 an hour, that \$2 an hour is a significant monetary factor and often times makes the difference between working for us and taking a job with an employer that does not offer health care. Additionally, since many other employers are not required to offer coverage to employees, the employee can still benefit from subsidies on the exchange which they would not have access to under employment with me. The result is a variance in net expendable income to an employee of thousands of dollars a year, which to someone making \$20,000-\$30,000 a year creates a potential significant difference of their income.

Carefirst, Maryland's Blue Cross and Blue Shield franchise and the health insurance provider our company uses, prices small group plans according to each individual's age. As a result, the variation in pricing for group insurance is the same as that for an individual buying a policy directly from Carefirst.

As an example, we can look at two employees who both work 38 hours a week on average, with a total employer salary expense (exclusive of employer payroll taxes) of \$15 per hour. Both employees are 51 years old and would be doing the exact same job – making flower arrangements in a flower shop – however, one employee, "Lauren" would be working for me (or another employer considered "large" under ACA) and provided health care insurance while the other employee "Sue" would be working in for a "small" employer who does not offer health care insurance.

	<u>Lauren</u>	<u>Sue</u>
Wages Earned	\$28,254	\$29,640
Employer Health Contribution	\$1,386	\$0
Employee Health Withholdings	\$1,386	\$0
Employee Subsidy Received	\$0	\$2,289
Cost of Private Plan	\$0	-\$2,773
NET EMPLOYEE CASH FLOW	<u>\$26,868</u>	<u>\$29,156</u>

In this example, “Lauren” is being penalized almost \$2,300 each year because she happens to be working for an employer who owns multiple flower shops instead of one who only owns a single flower shop. There is no room to make up the difference here – both employees are working in the same industry for the same number of hours a week. As a retailer, I cannot charge more for a dozen roses than my competition just to offset the difference in the health care. So, as an end result, the employee, “Lauren”, ends up having less disposable cash flow.

The challenges of ACA extend further to our employees. While I have made time to devote to exploring and trying to understand our obligations, I do not believe that our employees truly understand the impact of their health care coverage decisions. We are currently in the process of offering health care for our June 1st policy renewal.

Of the 28 offers of coverage we have made, about half have declined coverage. We have tried to educate our employees on the advantages of participating in our company-sponsored group insurance plan, but our employees making \$25,000 a year are weighing a payroll deduction of \$200 per month against what is being regarded as free coverage from the exchange. My understanding is that employees who decline an offer of coverage made by us are not eligible for a subsidy. There will surely be some troubles ahead when they are told to pay back these subsidy funds, but cannot afford to do so.

The 30-hour definition of full-time also places a burden on us as an employer. In the past, we have always used the criteria that if an employee’s regular weekly schedule is 36 hours a week or more, we would consider them to be full-time. We have numerous employees who work for us in a part-time capacity most of the year, but during the weeks surrounding our floral holidays, they end up working full-time hours, even sometimes overtime hours.

Some of these employees qualify as full-time for health care coverage under the ACA due to the total hours worked throughout the year, even though they worked less than 30 hours for almost all of the year. The 30 hour definition of full-time under the ACA has caused us to take a hard look at scheduling on a year-round basis to make sure that we are in compliance with the law while ensuring our business is sustainable.

Another major burden for companies like mine that employ seasonal workers is determining whether we are a large or small employer under the ACA and whether we have to

offer health insurance to certain employees. Under the ACA's employer shared responsibility requirements, the terms "seasonal worker" and "seasonal employee" do not mean the same thing. Complicating this further, the terms apply to different provisions of the ACA and have different periods of time to calculate.

Employers with fewer than 50 full-time workers but employ part-time or seasonal workers during part of a year must calculate whether they employ an average of 50 or more – FTEs in order to determine if they are an applicable large employer (ALE) under the ACA.

For each month, the number of full-time employees must be established during that specific month. Then, the total number of hours of part-time and seasonal employees during that month must be added together then divided by 120. The number of FTEs for that month is determined by adding together the quotient from the calculation and the number of full-time employees. This calculation must be performed for each month.

In order to determine whether the employer is an ALE that is required to offer health care insurance, the FTEs of each month must be added together then divided by 12 and have any decimals removed. If the final quotient is 50 or more, the employer is an ALE.

The ACA contains a seasonal *worker* exception for small employers that employ seasonal workers. The exception allows a company that employs seasonal workers and averages 50 FTEs for no more than 120 days to remove its seasonal workers from its ALE calculation and recalculate its size using the same formula. If the new quotient without the seasonal workers included is less than 50, the company is not an ALE.

However, if the employer is determined to be an ALE, regulations issued by the Treasury Department state that seasonal *employees* do not have to be offered health care insurance. Those regulations define a seasonal *employee* (as opposed to a seasonal *worker* as outlined in the law) as someone who is employed six months or less by an employer.

These conflicting definitions and applications of "seasonal" within the ACA itself create an enormous burden and obstacle to compliance. Employers use the terms "seasonal worker" and "seasonal employee" interchangeably in day-to-day operations. In the mind of most people, there is no difference between the two terms. Further, most seasonal businesses are small and do not have a large human resources department to wade through the law and regulations to ensure they are in compliance. In addition, many seasonal employers have heard of the seasonal exception and erroneously assume that they don't have to include seasonal workers in determining their business size calculation or offer them health care insurance at all.

A solution to this problem has been offered - the Simplifying Technical Aspects Regarding Seasonality Act (STARS Act). The bill would make a technical change to the ACA by aligning the definition of "seasonal" consistent with the Treasury Department regulations. If enacted, if a seasonal employee worked for an employer for more than six months, the worker

would be included in determining the business size and would have to be offered health care insurance if the employer was an ALE.

I hope that Congress passes the STARS Act quickly so small businesses will no longer have to wonder if they need to calculate the hours of seasonal *workers* or seasonal *employees* or whether the definition of is 120 days or six months or if they have to recalculate the number of hours worked by those employees over and over again or if they have to offer health insurance to those workers or not.

I agree with the idea of employer-sponsored health care, as evidenced by our company's commitment to providing health care to legitimate full-time employees for decades. Health care has always been a recruitment and retention tool used by our company in addition to competitive salaries, paid time off, and retirement plans, among others to attract and retain good employees. However, the Affordable Care Act has created an administrative burden and a detrimental competitive atmosphere, both inside and outside of our industry.

The full implementation of the Affordable Care Act has created an environment that encourages my employees to work for employers who do not offer coverage, while challenging me to juggle compliance requirements of health care with running the day-to-day operations of our family's 92-year old business. It is my hope that Congress will work diligently to relieve the burdens imposed on employers throughout the country.

Thank you again for giving me the opportunity to present this testimony before the Committee.