

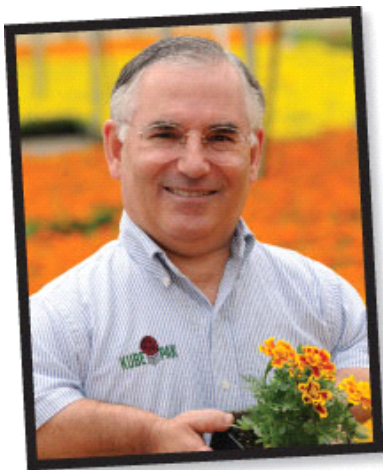
# GROWERTALKS

## Growers Talk Business

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### Ignorance is Bliss

Bill Swanekamp



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*Idioms: Ignorance is Bliss*

*Although its truth may be dubious at best, this idea has been expressed since ancient times. The actual wording, however, comes from Thomas Gray's poem, "Ode on a Distant Prospect of Eton College" (1742): "Where ignorance is bliss, 'tis folly to be wise."*

How many times have you heard the saying, "Ignorance is Bliss"? From the time I was a child I remember my parents telling me this idiom. Obviously, I didn't fully understand its meaning and maybe that was good. But today, I know what it means and still find myself wanting to live in "bliss" by not knowing certain unpleasant realities.

The spring of 2014 had excellent sales and we enjoyed selling virtually everything we grew. Unfortunately during the month of May, we experienced one of those moments in life where you wished you were still ignorant. Around the 12th of May, we were visited by two agents from the U.S. Department of Labor and Wage Division. They asked if we employed any seasonal or migrant workers and if we used a Farm Labor Contractor. We answered yes to both questions. They then proceeded to ask us if they could interview some of the workers to verify if we were paying them correctly. We said okay, but that it was going to be the busiest week of the year because we had such poor weather and sales in prior weeks. They said they didn't need an appointment and could do the interview whenever they pleased. Who was I to argue with them? They also assured us that they weren't concerned about the way we were paying the migrant workers, but wanted to be sure the Farm Labor Contractor was doing things according to the law. Seemingly without a choice in the matter, we allowed them in the greenhouse.

By the way, the Farm Labor Contractor is the person we contracted with to bring in workers each day to perform various greenhouse tasks. We agreed on a rate to pay him and then he's responsible to pay each of HIS employees an agreed rate. We pay him much more than the minimum wage so that he can pay their taxes and provide HIS employees with Workers Compensation coverage. We thought this arrangement provided us a measure of protection from employing the workers directly. About four weeks later, the agents told us that our payroll was completely accurate and correct, but that there were some issues with his wages.

It was at this point that our bubble of bliss was broken. They started using a term called “Joint Employment” and referred to the Migrant and Seasonal Agricultural Worker Protection Act (MSPA). We’d never heard of this act, nor knew what it meant to be a joint employer. Well, about an hour later, we knew what it meant to be a “Joint Employer” and my bliss was gone. In a nutshell, the MSPA stipulates that agricultural workers can have more than one employer at the same time. There’s a list of criteria that have to be met for the joint employer law to apply, but it’s so broad that virtually all employers using a Farm Labor Contractor are considered joint employers.

The bottom line was that the Farm Labor Contractor hadn’t paid everyone the correct amount of wages and, since he couldn’t come up with the money to correct the imbalance, we were liable for the short fall. We argued that we couldn’t have known he’d short-paid some individuals, nor could we even check. We argued that we paid him the correct amount. We argued that they were his employees. None of that mattered. The MSPA bound us as joint employers and, therefore, we were responsible for whatever errors or omissions he caused—whether his mistakes were innocent or deliberate. Talk about a reality check!

What’s the lesson to be learned here? If you’re using a Farm Labor Contractor, you better be sure he’s taking care of his payroll responsibilities properly. This means you need to get a copy of his payroll each week and verify if the wages he’s paying are accurate. You need to be sure he’s paying the collected taxes to the government. There’s much more to this law and if you want some “light” reading, go to <http://wagehour.dol.gov> and look up the MSPA laws. For sure, your bliss will be broken. **GT**

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