

**Testimony of H. Grady Payne, CEO of Conner Industries, Inc. before the House
Committee on Government Oversight and Reform
July 28th, 2011**

Thank you Chairman Gowdy, Ranking Member Davis, and Members of the Committee for the opportunity to testify today. I am Grady Payne, CEO of Conner Industries. Our headquarters is in Fort Worth, Texas and we currently have plants in Texas, Oklahoma, Mississippi, Tennessee, Georgia, Florida, South Carolina, and Virginia. We supply cut lumber and assembled wood products to manufacturing companies for their shipping and crating needs as well as logistics and supply chain management services.

Our company was started in 1981 with five people and one location. Today, in 2011, we celebrate our thirtieth anniversary, having grown to 450 employees and eleven plant locations. We offer our production-line employees market-competitive wages averaging \$10 per hour and as much as \$18 per hour for skilled workers and production line supervisors. Over 120 of our people have been employed with Conner for more than five years and twenty-two of those employees have been with us for over fifteen years.

Each of our locations operates in a distinct and self-contained market and each location employs fewer than fifty people. We're an average American business trying to finish each year with a fair profit, a profit that can be plowed back into growing the business and creating opportunities and jobs, as we have historically done.

We are in a commodity business which works off of low margins. Our competition is both local and international. In each of our markets, we compete against companies that have fewer than fifty employees as well as importing crating companies. These companies will not be subject to penalties imposed under the new law. This law will give them an unfair cost advantage over us. In today's highly competitive and global marketplace, companies with cost disadvantages do not survive and jobs are lost. This law places us in a disadvantaged position and should be changed to restore a level playing field for all businesses.

According to the Small Business Administration, a company of our size and in our industry classification is considered a small business, but under the Affordable Care Act, we are not treated as a small business. In fact, we are caught in the no-man's land between assistance and exemptions for small business and preferential treatment and waivers for mega corporations and other powerful entities.

Providing health insurance has always been challenging. When we started our insurance plan in the 1990's, we offered coverage to all employees. Most of our production line employees opted out due to high costs. The insurance companies refused to write coverage unless we could provide 75% or better participation. Because of this, and federal discrimination rules, we were forced to create groups of employees and significantly reduce the number to whom insurance was offered.

This situation has persisted to this day. We offer coverage to approximately 140 employees and struggle each year to get 75% participation. Today, after eligible exclusions, we have 100 participants and are able to meet insurance-carrier thresholds. The company pays approximately 55% of the total premium cost.

Our plan is a fully insured product. We are not comfortable with the open-ended cost potential of a self-insured plan and have been unsuccessful in finding an underwriter to write a plan for our group that is affordable. The new discrimination rules created by the law have the effect of pushing us immediately into a self-insured alternative or face a fine of up to \$500,000. Although the IRS has delayed enforcement of the new non-discrimination testing until regulations can be written, our plan could be tested and penalized as early as the 2012/2013 plan year. Without changes to the harsh penalties associated with this testing, we may be forced to drop our plan completely prior to state-based exchanges becoming available.

In 2014 we will be faced with an even more difficult choice:

- Option one is to expand coverage to all of our employees. Our past experience tells us this will not be acceptable to them unless we pay the entire premium cost or close to it. In order to do this, the additional cost would be approximately \$1,500,000 over the approximate \$750,000 in premiums we currently pay.
- Option two is to expand coverage to all of our employees and have the employee-contribution set at adjustable amounts based on the laws' affordability test of 9.5% of each employee's household income. If all employees stayed in the plan, our additional new cost would be estimated at over \$1,000,000. Based on previous experience, we expect that many would opt-out of the plan. For those individuals, we may be charged a non-tax-deductible penalty of \$3,000 per employee. For us to know if we owe the penalty, we must ascertain each employee's household income and whether they applied for and received a subsidy in an exchange. How we are going to know this is yet to be determined, it will be an administrative nightmare.
- Option three is to discontinue all policies and pay a non-tax-deductible penalty of \$2,000 for each of our 450 employees, less the statutory thirty exemptions, plus some portion of the penalty for employee turnover during the year. At today's employee count, that penalty estimate is over \$1,000,000 in new costs to our company and, again, not deductible from taxable income.

The impact of this law will cost our company \$1,000,000 or more no matter which option we choose. Worse, some of the extra cash cost, if not all, will be classified as a penalty and not tax deductible. We would owe income tax plus the penalty. Today, these estimates are more than the company makes. We would have a cash loss for the year. These forecasts do not even consider the significant additional administrative costs we are incurring and will continue to incur managing the program, preparing mandated government reports, and tracking all employee's household dependents and earnings.

No doubt, additional computer software and hardware will have to be purchased and maintained for these purposes. In addition, there are other annual fees and costs such as the Health Insurance Tax on fully insured plans and the Comparative Effectiveness Research Fee. None of this adds one penny of productivity or revenue to our business.

We have been very blessed to be a profitable company even in these hard economic times. We have had to make many sacrifices in pay, bonus programs, and people. Our company is a taxpayer. The burden of new and expanding taxes will be catastrophic.

We are a company caught in the middle. As the law stands now, our thirty-year business and the jobs of 450 employees are at risk of being legislated out of existence. How can this be? Our lives are in this company and we have done a good job for our customers, our employees, and all of our families.

We understand the goal of getting everyone health insurance coverage, and we agree that it is a worthy goal. But the massive cost increases hit us right between the eyes. We are too small to get favorable group rates and self-insurance contracts and too large by statute to be exempt even though each of our profit centers employs fewer than fifty employees. The ratio of cost to earnings is overwhelming to us, plus we are put at a competitive disadvantage in our market areas. There has to be a better way to achieve this goal than to cripple a small business like ours.

We're fighters and we will hold on as long as possible. We have seen bad markets before, though none as bad as this one. Our current capital expansion and business development plans are stopped and will continue to be halted by this law because expansion and hiring require cash. The impact of the law robs us of our needed capital for equipment maintenance and fixed assets for continued operations and for business growth. Our goals turn from "hire-and-grow" to "cut-and-survive."

I thank all of you for your service to our great nation and for allowing me to plead the case of Conner Industries and small businesses like ours.

H. Grady Payne
Conner Industries, Inc.