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MEMORANDUM

TO: M&SCA Members
FROM: Frank E. Wall
DATE: November 26, 2018
SUBJECT: New Jersey Revised “Bona Fide Representatives” Rule

On October 4, 2018, NJ Governor Murphy signed into law an amendment to the definition of a “bona fide representative” for heating, ventilating, air conditioning and refrigeration (“HVACR”) contractors. Prior to this recent law, there was no requirement that a HVACR license holder have an ownership in an HVACR contractor in order for the contractor to conduct business in New Jersey. The law signed by Gov. Murphy, which became effective October 4, 2018, changes that and there is now an ownership requirement that the bona fide representative be at least a one-percent owner of the HVACR contractor.

There are two exceptions to the one-percent ownership requirement. The first exception is made for a corporation, partnership, or other firm or legal entity engaged in HVACR contracting in the State which “generates more than 65 percent of its gross revenue from sources other than HVACR contracting.” The second exception provides that the one-percent ownership requirement does not apply “with respect to a publicly traded corporation, including its wholly-owned subsidiaries, whose principal business in this State is HVACR contracting.” If either of these two exceptions apply, then the “bona fide representative” need only be “in the case of a sole proprietorship, the owner; in the case of a partnership, a partner; in the case of a limited liability company, a manager; or in the case of corporation, an executive officer.” Under these two exceptions, the entity does not need to show that the “bona fide representative” holds a one-percent ownership interest.

Again, this legislation became effective October 4, 2018. Should you have any questions, our legal counsel Henry Donner or Dan Haggerty are prepared to address them.