

It's COMP-licated: Tricky Compensation Issues for Employers

Overview

- Risks and Rewards When Utilizing Incentive Compensation
- Michigan's Equal Pay Statutes
- Avoiding Claims Under the Michigan Sales Representative Commission Act

Incentive Compensation

- Profit Sharing
- Cash Bonuses
- Equity Awards
- Phantom Equity



Rewards

- Motivation
- Loyalty
- Job Satisfaction
- Investment in Employer's Success
- Increased Sales or Productivity



Risks

- Failure to Set Effective Metrics
- Promotion of Risky Behaviors
- Fairness
- Lack of Clear Objectives
- Failure to Communicate Expectations and Monitor Progress



Michigan's Equal Pay Statutes

- **Elliott-Larsen Civil Rights Act**
 - MCL § 37.2202
- **Workforce Opportunity Wage Act**
 - MCL § 408.423
- **The Michigan Penal Code**
 - MCL § 750.556

Avoiding Claims Under the SRCA

- **Michigan Sales Representative Commission Act - MCL § 600.2961**
- Who does it cover?
 - Principal
 - Sales Representative

Commissions: When Must They Be Paid?

- Contract terms will dictate when commissions will be paid.
- If there is no contract, past practice or the custom or usage of similar businesses will control.
- Post-termination commissions shall be paid within 45 days.

Penalties for Violating SRCRA

- Sales representative's actual damages
- Double damages (up to \$100,000) if the principal is found to have “intentionally” failed to pay the commission earned by the sales representative
- Attorneys' fees

How to Avoid SRCA Claims

- Clear written agreements are essential
- Critical considerations:
 - Sales representative's duties?
 - When are commissions earned/paid?
 - Completed sales or customer procurement?
 - Grounds for termination?

THANK YOU