STAFFING INDUSTRY ANALYSTS

The PPACA and How It Will Affect Your Contingent Workforce Program

Speakers:
Charles P. Stevens, Partner
Michael Best & Friedrich LLP

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Process Excellence at TAPFIN, a ManpowerGroup Company

Moderator: Adrianne Nelson
Director, Global Services, Staffing Industry Analysts

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July 18, 2013
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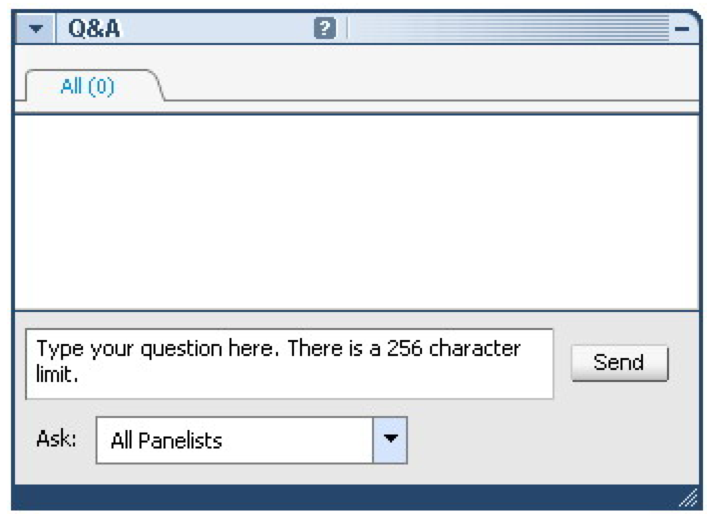

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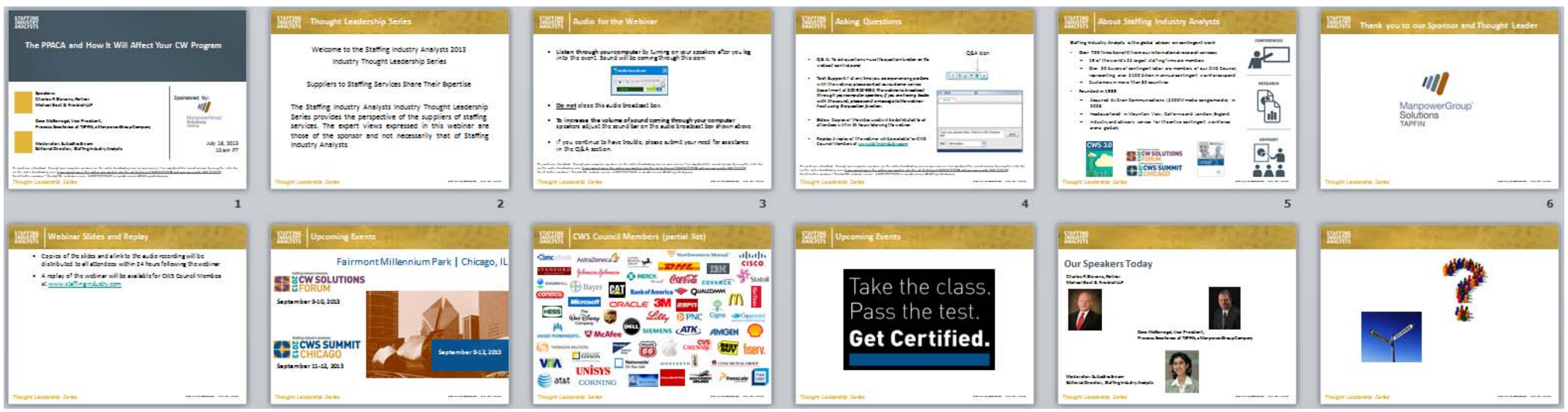

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Staffing Industry Analysts is the global advisor on contingent work

- **Over 700 firms benefit from our international research services**
  - 19 of the world's 25 largest staffing firms are members
  - Over 60 buyers of contingent labor are members of our CWS Council, representing over $100 billion in annual contingent workforce spend
  - Customers in more than 80 countries
- **Founded in 1989**
  - Acquired by Crain Communications ($200M media conglomerate) in 2008
  - Headquartered in Mountain View, California and London, England
  - Industry and advisory service for the entire contingent workforce arena globally

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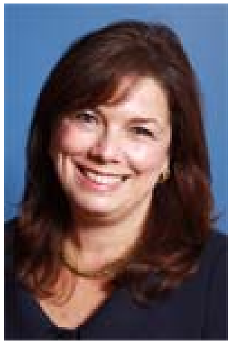
Our Speakers Today

Charles P. Stevens, Partner
Michael Best & Friedrich LLP



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The PPACA and How It Will Affect Your Contingent Workforce Program

Friday, July 19, 2013

TAPFIN
ManpowerGroup Solutions

Healthcare Reform – Key Questions

- What does this law encompass and how does it affect me?
- What are the implications for my supply chain?
- How will this impact the individual contingent workers my firm engages?
- How might my costs be impacted?
- What will this mean for my MSP program?

Healthcare Reform Impact Map

WHY ARE EMPLOYERS WORRIED?

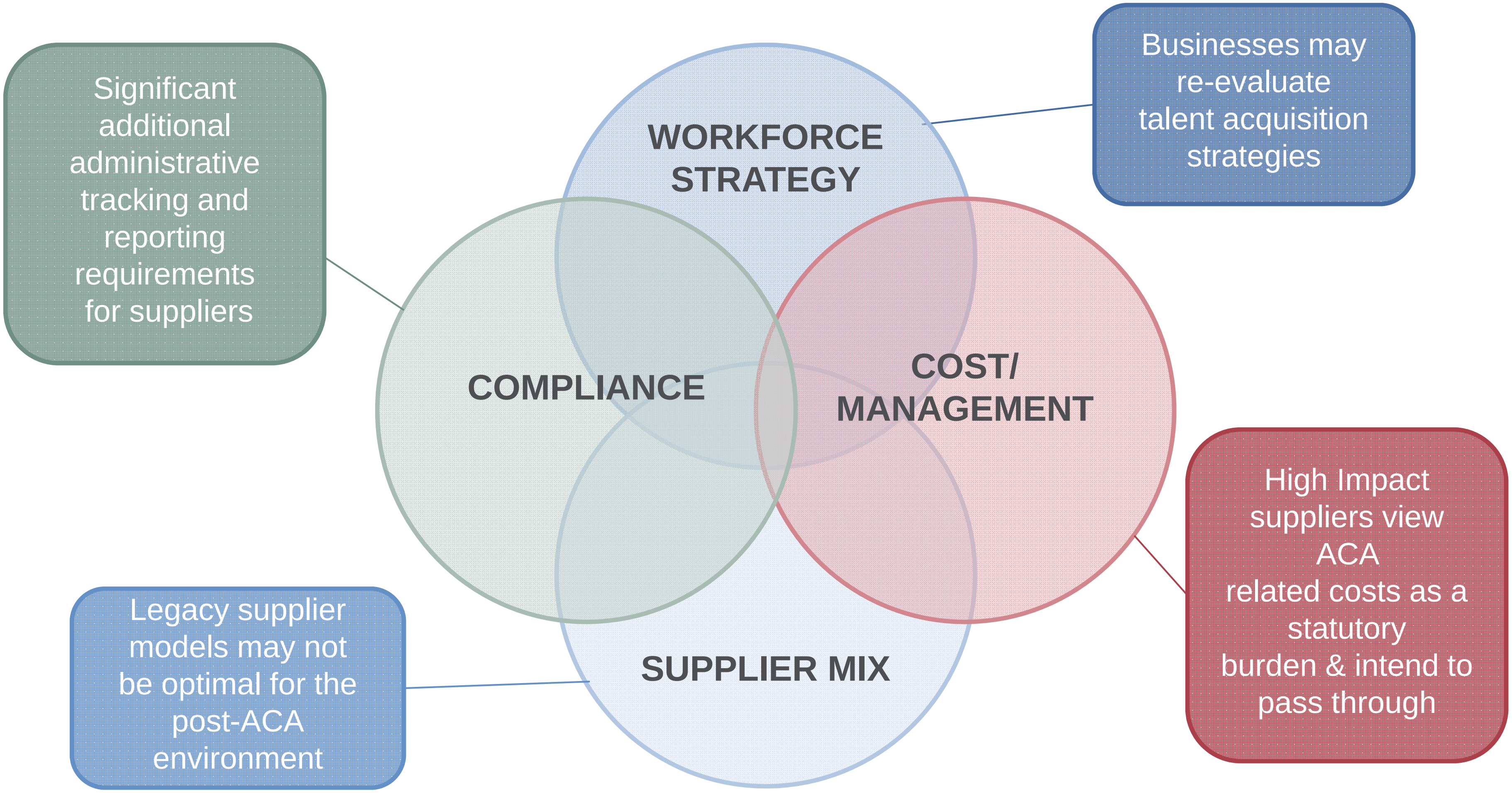
Cost and Compliance

- Increased premiums
- New fees and taxes
- New recordkeeping (internal) requirements
- New reporting (external) requirements
- Communication requirements

Talent Attraction and Retention

- Benefits
- Workforce strategy
- Educate value of total compensation package, inclusive of benefits costs and options
- Retention and continuity
- Cost of turnover
- Transactional friction

TAPFIN's Approach to HCR for MSP Solutions



TAPFIN'S APPROACH TO HCR

Analyze → Educate → Administer

It's not just about penalties:

- Complex decision making needs to take place
- Internal costs will be significant
- On-going monitoring will be required

The impact of a dynamic implementation environment:

- Rewards adaptability and expertise
- Client's contingent workforce strategies will change – likely multiple times
- Some suppliers will change their service mix
- Supplier's costs will vary based on their "pay or play" decisions and may impact their competitiveness from a recruitment standpoint.

July 2 Announcement on Employer Mandate

What Changes:

The Administration has decided to delay implementation and enforcement of the employer responsibility provisions of the ACA until 2015. Employers will be encouraged to move forward with implementation in 2014 on a “voluntary” basis, and no penalties of any kind will be assessed in 2014.

What Does Not Change:

- The individual mandate remains
- Enrollment in the exchanges will occur in October
- Subsidies will still be available for those whose household income is between 100% and 400% of the Federal Poverty Level
- Medicaid expansion continues
- Plans cannot have pre-existing condition exclusion
- The Patient Centered Outcomes Research Institute fees still apply
- The Transitional Reinsurance Fees still apply

In Summary

- This is a complex law
- This is a moving target
- Understand who is the common law employer
- Anti-abuse measures are built into the law
- Hiring is becoming more costly
- Impact will vary from firm to firm
- Get involved

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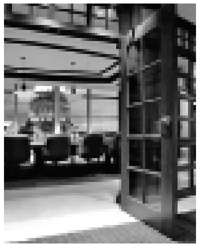

Affordable Care Act: Strategies for Employers

July 18, 2013

Charles P. Stevens

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Know what is coming

- Do your homework.
- Learn the law and the areas in which it impacts your health plan.
- Learn effective dates and work backward on establishing decision points.
- Do understand that there will be inherent uncertainty to some extent.

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Challenges for Employers

- Complex compliance requirements
- Significant consequences for noncompliance
- Significant increases in the cost of health benefits and administration of health plans
- Uncertainty
  - Budgeting
  - Compliance
  - Direction of health care in the U.S.
  - Workforce Structuring, competition for employees
  - Whether employees without coverage will have a safety net

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Know your special circumstances

- Few employers are "normal"; neither Congress nor the Agencies may have contemplated your business model.
- Do you currently have full time employees for whom you offer no benefits?
- Do you have many casual or contingent workers?
- Is your plan grandfathered or non-grandfathered?
- Do your employees have low, medium or high incomes?
- Are your employees young, middle-aged, or older?
- Is your current plan design poor, medium or rich?
- How much can you afford?

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Start getting ready for Pay-or-Play in 2015

- Do you understand the special rules applicable to large employers, including the pay-or-play rules and the requirement that the employer must offer affordable coverage to employees?
- Does your offer of coverage meet the minimum value and plan design requirements?
- Is your coverage offered to at least 95% of your full-time employees?
- Are you at risk for not offering coverage to employees classified as independent contractors or leased employees?

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Employer Does Not Offer Coverage

A large employer does not offer minimum essential coverage when it:

- Offers no coverage to at least 95% of its full-time employees; or
- Does not comply with grandfathered or new requirements applicable to health plans; or
- Does not offer coverage in which the plan's share of the total allowed costs of benefits is at least 60% of such costs (minimum actuarial value / bronze plan).

Penalty = $2,000 per person per year (coverage costs much more).

When calculating the penalty, subtract the first 30 full-time employees.

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Employer Does Not Offer Coverage

- Although Congress mandated that the full penalty would be imposed unless the employer failed to offer coverage to all full-time employees, the IRS has issued regulations permitting employers to avoid the penalty as long as they offer coverage to 95% of their full-time employees.
- Where more than 5% of the full-time employees are not offered coverage, the employer pays the full penalty.
- Example: 5,000 full-time employees, offer not made to 251
- The penalty is $2,000 x 4,970 employees (i.e., 5,000-30) = $9,940,000.

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Protecting your 5%

- Employers have many uses for the 5% of their full-time workforce to whom they do not have to offer coverage (interns, temporary project employees, returning retirees, fell-through-the-cracks people, buffer zone).
- The consequences of miscalculating and not offering coverage to 5% + 1 of full time employees are dire.
- Employers need peace of mind that they have properly excluded their contingent workers.

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Rules for Temporary and Variable Hour Employees

- If an employee is reasonably expected to be full-time, then the waiting period may not exceed 90 days, even if the job/assignment is for a short duration, say, 6 months.
- No penalty for not offering coverage to employees who average less than 30 hours per week.
- For uncertain or variable hour employees, the employer must either offer coverage or develop a tracking system that measures average hours.
- Measurement period, Administrative period, Stability period.
  - Measurement period – 3 to 12 months
  - Stability period – at least the greater of:
    - 6 consecutive calendar months or
    - The length of the measurement period.

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Rules for Leased Employees

A "common law" employer is typically the person for whom the services are performed and who has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work, but also as to the details and means by which that result is accomplished.

An employment relationship exists if an employee is subject to the will and control of the employer not only as to what shall be done, but how it shall be done. It is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if the employer has the right to do so.

Fed. Reg. Vol. 78, No. 1, p. 221, January 2, 2013.

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Rules for Leased Employees

- IRS regulations under PPACA assume leased employees are the common law employees of the staffing firm and thus treat them somewhat differently than they are treated for qualified retirement plan purposes under Code §414(n)(2).
- The IRS is concerned about situations in which the client is the individual's common law employer and the staffing agency is inserted solely in an attempt to avoid application of the pay-or-play rules.
- The IRS is not (yet) formally recognizing or contemplating joint employment or that leasing contracts will allocate responsibility for compliance.

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Best practices as to leased employees

- An additional arrangement staffing companies and MSPs will have to offer is handling pay-or-play responsibilities for the client.
- Understood that related costs will be passed on.
- Goal is to inoculate the client from exposure to risk and interference with its own benefits structure.
- Some risk where staffing company complies with pay-or-play by <u>offering</u> coverage.
- Greater risk where staffing company "pays."

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Best practices as to leased employees

- Can the identity of the common law employer be handled contractually?
- Should responsibility for pay-or-play be addressed contractually?
- Hold harmless or indemnification possible? (Perhaps not.)
- Will IRS eventually acquiesce to contractual conventions that will evolve?

The Delay of the Employer Mandate to 2015

- Pay-or-play and associated reporting is delayed until the first plan year starting on or after 1/1/15.
- In the interim, there will be “time for dialogue with stakeholders.”
- Employers will have time to “develop their systems for assembling and reporting the needed data.
- Employers are encouraged to voluntarily comply with the information reporting rules (once issued).
- Other provisions of the ACA are not affected.

Will the Insurance Exchanges Work?

- High Rates, therefore only viable for individuals and small business if highly subsidized by the government
- The subsidies promised are high but may not be enough
- If coverage is expensive and not fully subsidized, only sick people will take coverage through the exchange
- Possible dumping ground for poor medical risk
- Not market-driven, instead highly regulated and highly subsidized; will sufficient market forces apply to ensure success.
- What is the impact if employers drop coverage and people flock to exchanges?
- What is the impact if few insurance carriers choose to put products on the exchanges?

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Great Unknowns

- If exchanges are not succeeding due to high rates or low participation among insurance carriers and/or individuals, a cascade of problems will follow:
  - Affordable coverage is not available (no individual mandate is enforceable).
  - Employees may not be able to obtain coverage from the exchange (no employer mandate or affordability penalties).
  - Goal of insuring millions more would fail.
- As the exchanges go, so will go individual and group insurances markets in the respective states.
- As the exchanges go, so will go the future of Health Care Reform.

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Possible other retreats/delays

- Exchanges? (already delayed SHOP for small employers)
- Items delayed pending further guidance:
  - Nondiscrimination provisions
  - Auto-enrollment
- Individual Mandate?
- Could pending court cases derail the law?

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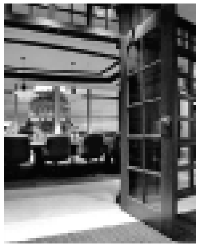

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Wednesday, January 23, 2013	Introduction to the Contingent Workforce in Asia ARCHIVED
Wednesday, February 20, 2013	SOW - a global trend? ARCHIVED
Thursday, February 21, 2013	Creative Management Strategies for the Contingent Workforce ARCHIVED
Wednesday, March 20, 2013	Understanding Contingent Workforce Risk and Developing a Global Risk Assessment Framework ARCHIVED
Thursday, March 21, 2013	Making It Work: Succeeding with HR and Your Contingent Workforce ARCHIVED
Wednesday, April 17, 2013	Introduction to the Contingent Workforce in the Middle East ARCHIVED
Thursday, April 18, 2013	Best Practices for Expanding Your CW Program Internationally
Thursday, June 13, 2013	Establishing Program Metrics and KPI's to Drive Program Performance
Wednesday, June 19, 2013	International Legislative Review
Thursday, July 18, 2013	The PPACA and How It Will Affect Your CW Program
Wednesday, July 24, 2013	The emergence of VMS and MSP outside North America
Thursday, August 22, 2013	Incorporating Statement of Work (SOW) Consultants Into Your Program
Wednesday, September 25, 2013	Exempt and Non-exempt Contingent Workers and Why You Should Care
Thursday, October 17, 2013	Term Limits and Other Contingent Workforce Risks
Wednesday, October 23, 2013	French Contingent Programme Showcase
Wednesday, November 13, 2013	Forecasts for 2014
Thursday, December 05, 2013	VMS/MSP Landscape - A Comprehensive Review of 2013
Wednesday, December 11, 2013	Introduction to the Contingent Workforce in Africa

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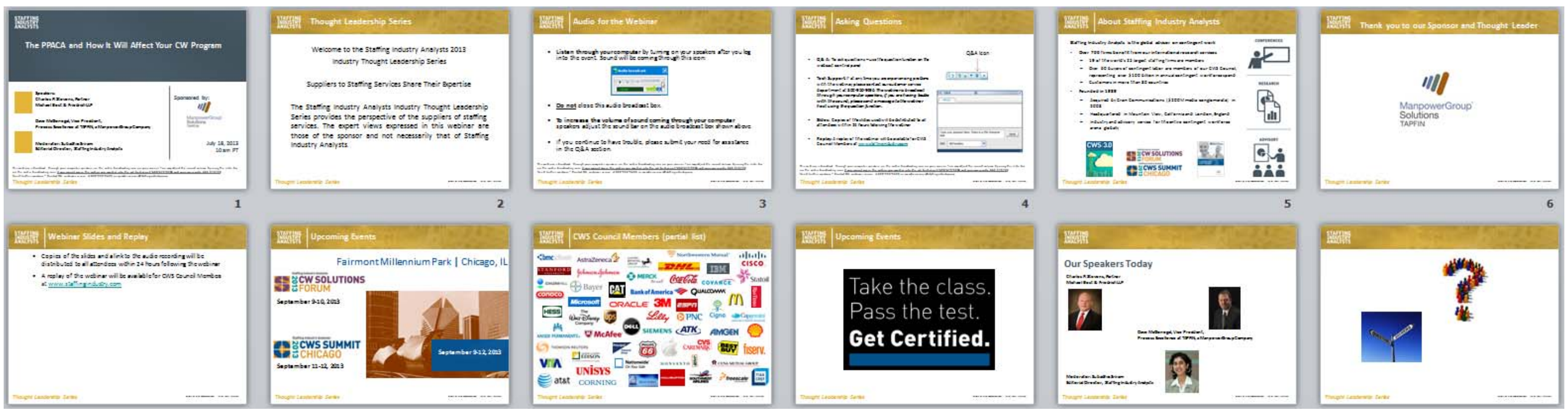

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