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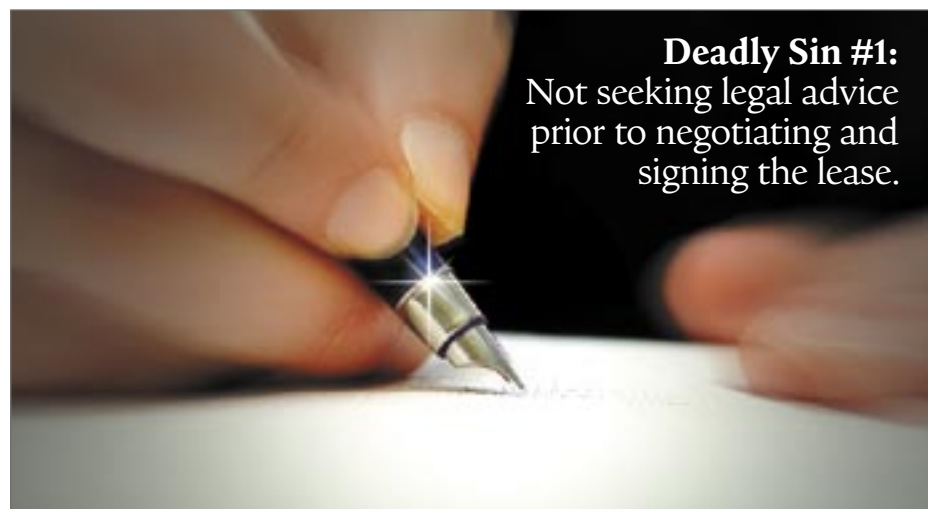
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Deadly Sin #1:
Not seeking legal advice prior to negotiating and signing the lease.

SEVEN DEADLY SINS IN COMMERCIAL LEASING

"The following are seven deadly sins I've seen in the trenches, which both tenants and landlords should avoid."

BY MOIRA WALLACE BA, MA, LLB

Commercial leases are not standard fare. I've had a number of clients come to me with issues involving their commercial premises and needing help with either their landlord or tenant and getting out of the lease. The following are seven deadly sins I've seen in the trenches, which both tenants and landlords should avoid.

Deadly Sin #1: Not seeking legal advice prior to negotiating and signing the lease. There is no "standard form" one-size fits all commercial lease. Anyone who tells you so is either hoodwinking you or has no knowledge of commercial leasing themselves. Leases vary based on gross and net rental terms and the various rights and remedies available to tenants and landlords.

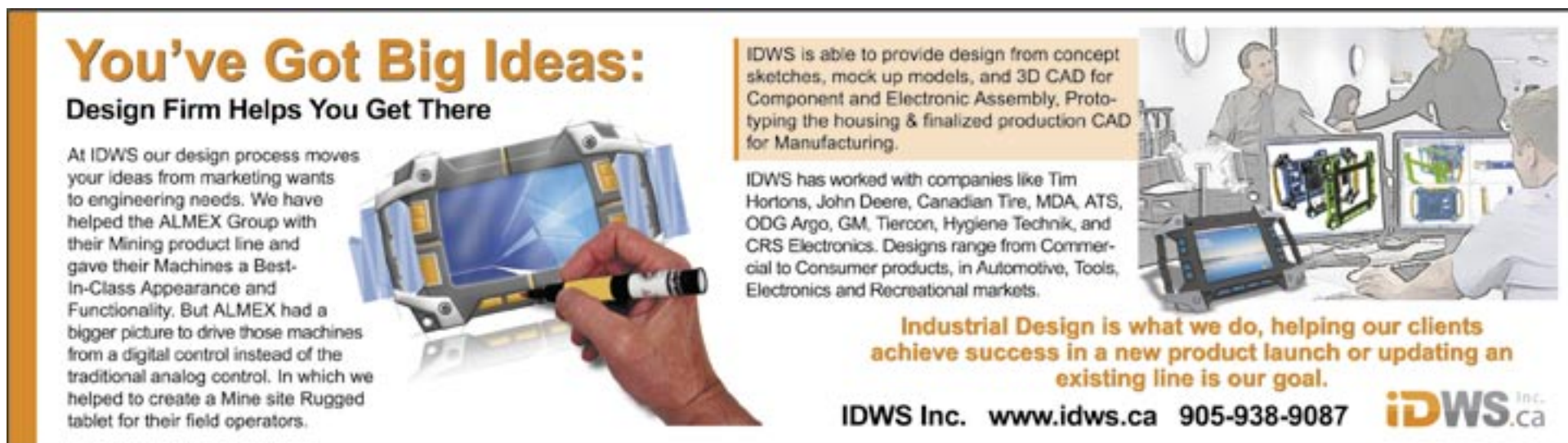
Deadly Sin #2: Using a lease from the internet or one from a different deal. Most internet resources are U.S. based, subject to different laws and practices, which may not apply in Ontario. Using a "precedent" form doesn't mean the lease works for your transaction. Don't be the landlord who issues a lease that includes references to an unknown guarantor and equipment not included as part of the lease.

Deadly Sin #3: Not indicating what is and isn't included in the leased premises. It's not enough to describe the premises as an approximate square footage. Have a diagram attached to the lease if it's a portion of the building. List any equipment or fixtures that are included as part of the lease. Describe any premises shared in common with other tenants of the building.

"Most leases are lopsided listing every type of default by a tenant, but none for a landlord. *Tenants need some avenue of recourse for the landlord who refuses to maintain the premises or comply with its obligations.*"

Deadly Sin #4: Not knowing the cost to lease. Is rent calculated as gross, base plus additional, plus a revenue percentage, plus common fees or some other amount? What is covered in additional costs?...

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INCREASE YOUR POTENTIAL BY IMPROVING YOUR PERCEPTION

"Bring the Superhero back; he is inside you, just waiting to burst out."

Continued from page 4

...refreshed and ready to save the world. He is able to balance his drive and motivation with kindness and patience to his employees. Those that work with him admire and respect him. He makes sound decisions and facilitates the growth of his company.

The Hulk – You wouldn't like this hero when he is angry. He experiences rage at the smallest things, flying off the handle at work and at home. He is struggling with weight gain around the middle, due to elevated cortisol because of high stress levels. He tries to make it to the gym consistently to work off some steam, and that weight gain, but nothing seems to help. His stress glands are taking a beating by having to stay in fight or flight mode most of the time. This puts him at risk for decreased immunity and increased recovery time after illness. Sometimes sleeping is a challenge if he is wired and his mind is racing, so often times he will have to rely on caffeine and other stimulants to keep him alert during the day. His employees have learned to read his mood before approaching him with problems during the workday.

Homer Simpson – As lovable as Homer can be, he is definitely lacking some Superhero qualities. He is

overweight, a heavy drinker, makes poor nutritional choices, is a couch potato, and unmotivated to set the world on fire at work. He has a pot belly, an abrasive personality, and is losing his hair! Good thing Marge loves him. At mid-life, Homer's sex hormones are starting to decline, decreasing his libido, contributing to weight gain, making him grumpy, and unmotivated to get off the couch. His stress glands (adrenals) are probably fatigued due to poor nutrition, drinking and lack of exercise. His co-workers are fond of him, but often will circumvent him when trying to finish a product due to his lack of motivation.

Austin Powers – He is a shagadelic example of someone who has it going on internally, but his outer appearance is somewhat misleading. He may be overlooked initially for career opportunities because of his unprofessional appearance; but if given enough time, he can usually prove his worth. He is sharp, witty, and brave, has a healthy libido, and for the most part is physically fit. His hormones are balanced and he manages the stress in his life with flair. He makes decent food choices and doesn't over-indulge in alcohol. He sleeps well with whomever he entices into bed with him. The only thing Austin needs is a power smile, haircut and a stylist! Others would perceive him as healthy

and successful that much sooner with a few surface improvements.

Balancing your "Circle of Health" consists of four key components: hormones, nutrition, nervous system, and purification.

• **Hormones.** As men age, hormones like testosterone and growth hormone start to naturally decline. If these imbalances are corrected, men may have the advantage of an increased libido, maintaining leanness and muscle mass, staying sharp and focused, and maintaining their edge at work.

• **Nutrition.** Because every cellular activity in your body requires the proper nutrients, it is very important to feed yourself healthy food and quality supplements. You have to have the appropriate fuel to operate as a superhero. For example, B vitamins are important for energy and the production of hormones; whereas vitamin D3 is important for immunity and fighting cancer.

• **Nervous System.** Proper levels of neurotransmitters like serotonin and dopamine will keep moods even, tempers in check, creativity alive, and those around you happy. Proper amounts of amino acids are essential for neurotransmitter production. Sup-

plements such as 5-HTP and amino acids, along with moderate exercise can improve your neurotransmitter levels.

• **Purification.** A superhero's world is full of toxicities. Preservatives in foods, pollution in air, lead in paint, aluminum in deodorant are examples of toxicities in all areas of life. Alcohol and prescription/non-prescription drugs can also be considered toxins. To perform at the highest level, purification of cleansing organs like the liver and kidneys is very beneficial.

So, how are you being perceived? Are you reflecting your health or the lack thereof? You can control your reflection for a while, until age or poor health take over. It is important to put your best foot forward in this world. Perception can be critical in a job hire, promotion, sale or deal. You can still be the Superhero you were destined to be by taking a few crucial steps toward health. Bring the Superhero back; he is inside you, just waiting to burst out. Who knows, someone may mistake you for Clark Kent!!! **EL**

Jill Wade, DDS, MAGD and Kelly Martin DC are committed to helping men and women find a natural approach to wellness. Dr. Martin and Dr. Wade explore the synergy between the entire body and the mouth being a window to wellness and alignment. Co-Founding Relevance Health was a combined effort to help men and women lead healthier, better lives. To learn more about a healthy "Circle of Health" visit www.relevancehealth.com.

Seven Deadly Sins

"It's not enough to describe the premises as an approximate square footage. Have a diagram attached to the lease..."

Continued from previous page...

A tenant disputed the cost of hydro payments. The landlord claimed it was part of TMI (taxes, maintenance and insurance) and the tenant claimed it was capped, as part of additional rent. The two terms were used interchangeably, but incorrectly. The tenant prevailed, to the landlord's demise of \$20,000.

Deadly Sin #5: Not clearly stating tenant and landlord responsibilities. Who is responsible for fixing or replacing a broken HVAC unit? Who pays for the cost of it? Will the cost be amortized over the useful life of the equipment or paid up in the first year for a tenancy, which terminates in a year? Same goes for improvements to the premises, such as roofing, fencing and parking lots. Neither party wants to be stuck with huge costs that won't benefit them.

Deadly Sin #6: Limiting transferability of the lease. The future is unknown and both parties should have the benefit of assigning the lease. Tenants shouldn't agree to the landlord's consent for a change in control of their company, which goes beyond the parameters of leasing property. But landlords need to ensure the financial stability of

their tenants. Find middle ground to allow flexibility in a changing world.

Deadly Sin #7: Defaults without any remedies. Most leases are lopsided listing every type of default by a tenant, but none for a landlord. Tenants need some avenue of recourse for the landlord who refuses to maintain the premises or comply with its obligations. Landlords need support to prevent a midnight run by their tenant. At a minimum, have a clause for dispute resolution, which may avoid serious defaults by either party. Clearly state what remedies are available for the non-defaulting party and the steps to be taken in the event of default.

A commercial lease can be a long-term serious relationship. There's nothing worse than getting into bed with someone and finding out you can't kick them out for eating crackers. Make sure you have the tools you need in your lease, in case the landlord or tenant crumbles the cracker. **EL**

For more information please contact Moira Wallace BA, MA, LLB, Chief Loophole Advisor and Notary Public at 905.575.0732, email moira@wallacelaw.ca or visit Moira's website at www.wallacelaw.ca.

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