

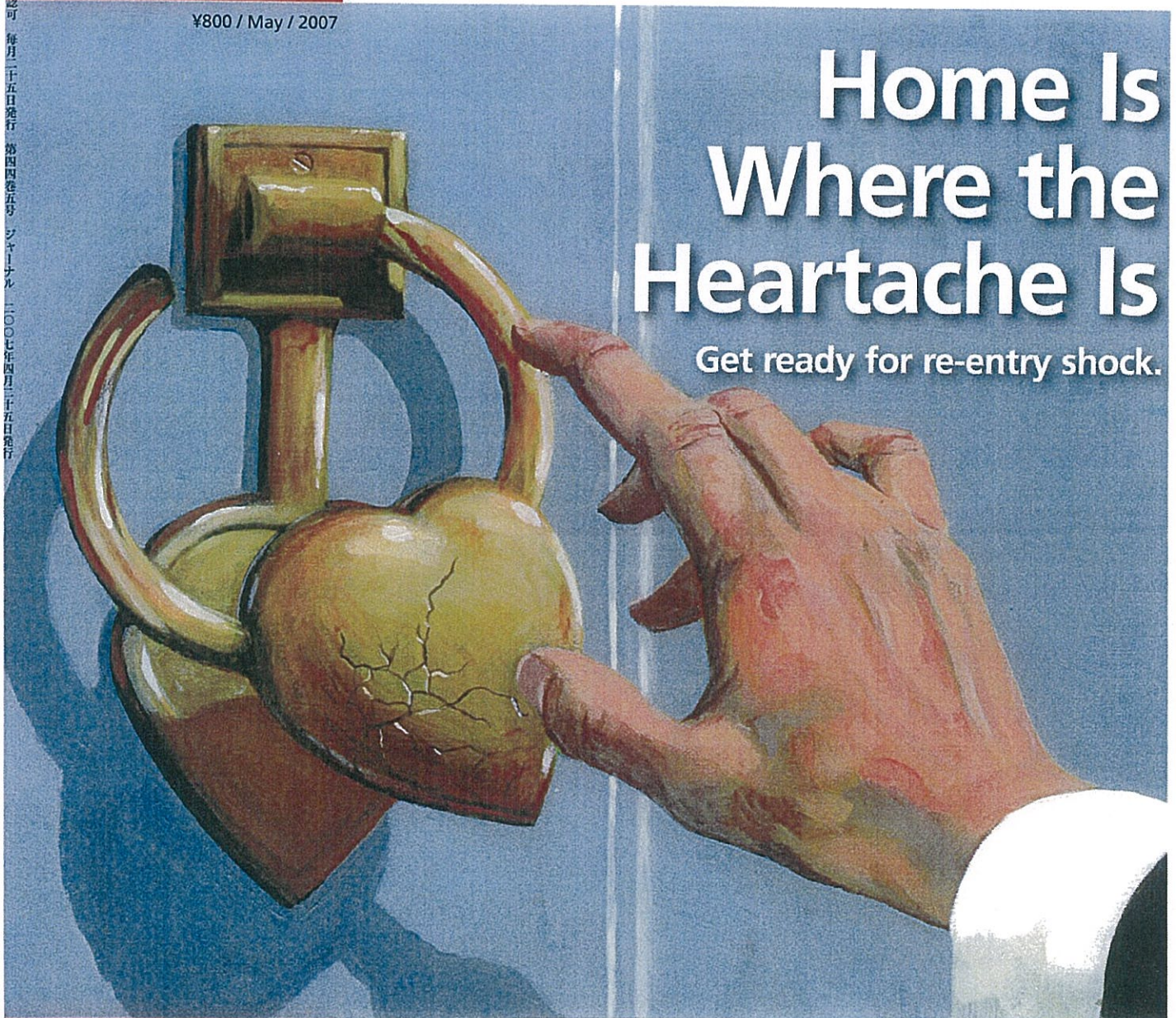
ACCJ

Journal

¥800 / May / 2007

Home Is Where the Heartache Is

Get ready for re-entry shock.



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Osaka's "Lost Soul"
Samurai Sword Revival?
Logistics Update

SPECIAL ADVERTISING SECTIONS

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毎月二十五日発行 第四四巻五号 シーナル 二〇〇七年四月二十五日発行

The Decade Ahead

Utilize women and seniors to overcome aging society and employment issues.

Every month, we ask an ACCJ leader what challenges and changes their industry face in the next 10 years.



Thomas J. Nevins
Founder and President
TMT Inc.

In line with an aging and shrinking workforce, and narrowing wage differentials with Asia, running recruiting ads or obtaining candidates on corporate Web sites

will become more difficult here. Other than an increased dependency on recruiting companies, employers also face the challenge of better utilizing female and older workers. From April 1, 2007, the legal retirement age essentially moved up to 63 years old, and will rise to 64 from April 1, 2010, and to 65 from April 1, 2013. Rules of Employment (ROE) need to be adjusted to follow the practice of ceasing to commence retirement benefits at age 60, including adjusting salary levels and placing people on renewable contracts until the revised mandatory retirement age, or even beyond.

Surprise overtime inspections, with companies ordered to backdate and remit unpaid overtime, has angered employers. Nippon Keidanren (Japan Business Federation) pushed to align Japan with international standards, and legally define exempted non-managers as those earning "over a ¥4 million salary level." Unions and the opposition parties spoke of an ¥8 million or ¥10 million figure, but opposed the concept of exempted labor. The whole thing backfired on employers; and fearing worker wrath at the polls, the ruling LDP coalition is presenting only a portion of the draft bill that will increase overtime

rates. Your company may introduce *henkei rodoo jikan* (not necessarily flex time, but the averaging out of working hours over a month); overtime not payable over certain salary grades; a sizeable allowance in lieu of overtime; and employment contracts, including a certain number of overtime hours. This will see you through, but overtime remains a troublesome area.

Then-Prime Minister Junichiro Koizumi wanted to follow China's lead and make Japan more competitive by making it easier to dismiss employees. This also backfired, and the law now includes a footnote requiring that reasons be given for termination, that there be a socially justifiable standard, and that a rational reason be given. The employee capability to fight back using the courts has vastly increased. Judges remain reluctant to write decisions, instead dragging employers back to court until, it seems, they are so bored and tired that they will pay out big settlements to close cases.

So what do employers need to do? In short, stop firing per se. Instead, adjust ROE language to allow for pay adjustments for job change or lack of performance, other than the maximum penalty of one-half day's pay, or a maximum 10% monthly salary cut. If you must reduce someone's pay, offer the option of an increased severance – but bear in mind that low-balling is dangerous. Communicate well, and do not fire with a mere hope and a prayer. Please avoid telling people what is wrong with them, and, if anything, give them a chance to pull their own rug out from under themselves. In any case, do not work intuitively in the dark, and always get a signature on that separation letter.

Martin Foster is a freelance writer based in Tokyo.