

BOARD OF EMPLOYEE LEASING COMPANIES

MINUTES

May 21, 2003
Telephone Conference Call
850.414.6477

I. Call to Order

The meeting was called to order by Ms. Celeste Dockery, Chair, at 10:25 a.m.

II. Roll Call

Members Present:

Frank Crum
David Stroyan
Kelly Lanza
Celeste Dockery

Members Absent:

Donna Bloomer
Carlos Rodriguez

Others Present:

Juanita Chastain
Ed Telechea
Mike Miller
Jenny Doris
Jay Starkman
Steve Steinberg
Kenya Echols
David Check

III. Applications

a. Stephen Harper

Ms. Chastain stated the application had been reviewed by Ms. Echols and Ms. Boyd and was complete. Mr. Miller asked on behalf of the applicant that where it says group leader that he is also applying as controlling person to group members. Ms. Echols stated they were as listed on page 5 of the agenda.

MOTION: Ms. Lanza moved to approve.

SECOND: Mr. Stroyan seconded the motion and it passed unanimously.

b. Robert Liess

Ms. Chastain stated the application had been reviewed by Ms. Echols and Ms. Boyd and was complete. Mr. Miller stated that Mr. Liess was also applying as controlling person to group members as listed on page 33.

Ms. Lanza questioned that the FBI report has not been returned.

MOTION: Ms. Lanza moved to approve subject to receipt of FBI report.

Mr. Miller asked that the files be approved but if the FBI report comes back with problems then the applicant would come back before the board. Ms. Dockery recalled the board had agreed to that course of action in the past.

Mr. Steinberg stated Mr. Harper and Mr. Liess would have no problem with that proposal.

MOTION: Amended motion to approve application that Mr. Harper agrees to come before the board if something comes back to his detriment on FBI report.

SECOND: Mr. Stroyan seconded the motion and it passed unanimously.

Mr. Stroyan asked that the letter that goes out with his license include something in it about the FBI report.

MOTION: Mr. Stroyan moved to approve application of Mr. Liess and that he agrees to come before the board if something comes back to his detriment on the FBI report.

SECOND: Ms. Lanza seconded the motion and it passed unanimously.

Mr. Steinberg stated that there were three other companies approved at the last meeting contingent on receipt of financial statements. Those were Professional Employer Plans III, V and VI. They were not stated in the agenda and Mr. Harper and Mr. Liess will be controlling persons for those companies as well.

Mr. Stroyan asked if they had been approved. Mr. Steinberg stated they had. Ms. Dockery asked if information on pages 5 and 33 were incorrect.

Mr. Stroyan stated that if the board has approved them as controlling persons for all of the companies on pages 5 and 33 then they would still be controlling persons of the EL companies. Mr. Miller concurred. The fact that they are no longer a GM but an EL the controlling persons would still be the same. Mr. Steinberg stated the only concern would then be Professional Employer Plans III which was not a part of the group but a new company. It is listed on page 5 and 33 as pending.

Ms. Chastain stated Professional Employer Plans III was approved contingent on receipt of additional information. That information has been received but Ms. Echols has not had a chance to review. Once it is reviewed and deemed complete it will be included.

c. Jay Starkman

Ms. Chastain stated that Ms. Echols had reviewed the file. The FBI nor the FDLE reports have been received. Mr. Miller indicated Jay had applied for Alphastaff, Inc. as a group leader that was also to encompass the group members. Ms. Lanza asked if the group members were listed in the agenda? They were not. Ms. Dockery asked staff to look them up and table until information was received.

MOTION: Mr. Stroyan moved to table.

SECOND: No second

IV. Discussion

Mr. Miller asked about an applicant seeking change of ownership. He feels the matter has never been clarified. Mr. Miller stated the statute indicates a change of ownership talks about the person or entity that seeks to purchase or acquire control. Mr. Miller posed the following question: if you own 100 percent of the company, sale 40 percent to Joe, 20 percent to Sam and 40 percent to Mary does that trigger a change of ownership where no person or entity has gained control? Mr. Miller indicated that up to now it would not trigger a change of ownership because no one has gained control.

Mr. Telechea stated he spoke with John Rimes and he agrees that it would not trigger that particular provision of the statute.

Mr. Miller stated he had a situation where this was happening and he got an affidavit from the two persons who were buying stating they have no voting arrangement to vote their stocks together just two individuals who had purchased stock.

Ms. Dockery stated notification for the file would be important. Mr. Stroyan stated if no individual control all of the individuals who had been 10 percent owner would need to be approved as a controlling person.

Mr. Miller indicated they would have to file a historical sketch if purchased 10 percent or more but a controlling person license would not be necessary unless you own 50 percent or more or if you are president or have power to sign service agreements, etc.

Mr. Stroyan said the company could have three stockholders with none of those being a controlling person and the president being the controlling person but not a stockholder.

Ms. Doris asked about a brother/sister relationship. Would that constitute control? Mr. Miller stated rules of attribution is husband/wife. Mr. Doris stated the IRS also looks at a family relationship.

The board returned to the review of Jay Starkman and Alphastaff, Inc.

Ms. Echols stated the group leader is Alphastaff, Inc., group members of the group are Alphastaff III, Inc., Alphastaff systems, Inc., Equity Leasing Finance. Inc., and MBR Group V, Inc.

MOTION: Mr. Stroyan moved to accept pending receipt of FDLE report and then if FBI reveals anything the applicant would come back before the board.
SECOND: Mr. Crum seconded the motion and it passed unanimously.

The board returned to discussion items.

The board discussed an email from Mr. Miller. Mr. Miller's email indicated he spoke with the JUA on whether client based policies could be written outside of the JUA when the PEO had a JUA policy. The JUA indicated they would prefer that. Mr. Herschel has indicated the DOI is working on the letter to the board.

Ms. Echols indicated she did receive a letter from the JUA on an applicant's behalf. Ms. Echols stated that at the last meeting Calvin Courtney was approved pending receipt of a letter from the JUA. Mr. Miller stated the JUA wants the board to approve and then they will issue the policy.

Mr. Miller asked what Ms. Echols would need from an applicant when they are going to have a JUA policy so that they can get on the agenda. Ms. Echols stated she needs proof that the applicant has attempted to receive the coverage. Mr. Courtney turned in a letter from the JUA that once the applicant is approved coverage would be extended.

Ms. Lanza asked that the letter be included in the agenda. Mr. Miller stated the problem is with the applicant getting a copy of the letter from the JUA. Mr. Miller asked if Ms. Echols has had trouble getting information from the JUA. Ms. Echols indicated she had only dealt with Mr. Courtney and had no problem. Ms. Lanza stated the letter goes directly to Ms. Echols. Ms. Miller stated he would call the JUA and ask for a copy of the letter.

V. Rule Discussion

Mr. Miller stated the definition of assumes responsibility was stricken by JAPC. His recollection was that because the rule references the Fair Labor Standards Act, JAPC stated there was no statutory basis to cite the Fair Labor Standards Act. There has been a decision out of the Federal Court in Miami that says there could be a violation of state law if someone does not pay an employee in accordance with the employee leasing licensing law. The State association is asking that a definition be put back in the rules as to what is meant by assumes responsibility for the payment of wages.

Mr. Telechea indicated the board could vote for a notice of rule development.

Ms. Lanza stated she would like to review the rule and discuss at the next meeting. Ms. Lanza stated that the agreement for services would change. Mr. Miller stated that the statute says there must be language in the agreement that you assume responsibility for payment of wages without regard to payment by the client. Mr. Miller stated that some agreements indicate they will pay minimum wage. He indicated that the rules cannot mandate that minimum wage be paid.

Ms. Lanza stated if there were no urgency she would rather wait until the next meeting to begin rule development. Mr. Miller indicated there could be a bit of an urgency because there is a decision out there that could be a mortal injury to the folks in this industry if a

court in Florida would say there is no rule in Florida as to what is meant by the payment of wages.

Mr. Telechea indicated that noticing for rule development would just give the board an opportunity to look at the rule at the July meeting.

MOTION: Mr. Crum moved to notice the rule for development.

SECOND: Mr. Stroyan seconded the motion and it passed unanimously.

VI. Proposed Meeting Dates

The upcoming 2003-04 meeting dates were set:

June 18, 2003	Tampa
July 16, 2003	Conference Call
August 20, 2003	Tampa
September 17, 2003	Conference Call
October 15, 2003	Tampa
November 19, 2003	Conference Call
December 10, 2003	Tampa
January 21, 2004	Conference Call
February 18, 2004	Tallahassee
March 17, 2004	Conference Call
April 21, 2004	Tampa
May 19, 2004	Conference Call
June 16, 2004	Tampa

The conference calls will begin at 10:00 a.m.

VII. Adjournment

MOTION: Mr. Stroyan moved to adjourn.

SECOND: Mr. Crum seconded the motion and it passed unanimously.

The meeting adjourned at 11:45 a.m.