

**BOARD OF EMPLOYEE LEASING COMPANIES
GENERAL BUSINESS MEETING MINUTES**

**SHERATON SUITES – TAMPA AIRPORT
4400 WEST CYPRESS STREET
TAMPA, FLORIDA 33607**

**June 18, 2003
8:30 a.m. EST**

I. CALL TO ORDER

The meeting was called to order at approximately 8:31 a.m. EST by Ms. Celeste Dockery, Board Chair.

II. ROLL CALL

MEMBERS PRESENT

Celeste D. Dockery, Chair
David B. Stroyan, Vice Chair
Frank W. Crum, Jr.
Kelly Lanza
Donna M. Bloomer
Carlos Rodriguez

MEMBERS ABSENT

None

STAFF PRESENT

Juanita Chastain, Executive Director, DBPR
Krista B. Woodard, Government Analyst II, DBPR
John Rimes, Board Counsel, Office of Attorney General
Eric Hurst, Assistant General Counsel, DBPR

OTHERS PRESENT

Michael Miller, Kunkel, Miller & Hament, P.A. and FAPEO
Steven Steinberg, Professional Employer Plans
Judi Newman, Employer's Alliance V, LLC
Bruce Bulman, Employer's Alliance V, LLC
Revel Bellamy, ASMARA
Steve Musco
Dianne MacDinger
Dale Schmidt, PEOple Premier, Inc.
Linda Alcathe, NELCO
Virginia Dorris, NELCO
Janice DiRose, Janice DiRose, P.A.
Rustin Polk, AMS Staff Leasing
Dan McHenry, McHenry Consulting
Robert Skrob, FAPEO

The meeting was opened with a roll call and a quorum was established.

INTRODUCTIONS

Ms. Juanita Chastain introduced Ms. Krista Woodard as the Board's new Government Analyst. Ms. Woodard stated that she looks forward to working with the Board. Ms. Dockery stated that the Board looks forward to working with Ms. Woodard.

III. REVIEW AND APPROVAL OF THE MAY 21, 2003, TELPEHONE CONFERENCE CALL MEETING MINUTES

MOTION: Ms. Donna Bloomer moved to approve these minutes.
SECOND: Mr. Frank Crum, Jr. seconded the motion and it passed unanimously.

IV. INFORMAL HEARINGS

Case

- A. **Axxess HR I, INC** **2001-00710**
B. **Axxess HR II, Inc.** **2001-00712**
(PCP: Dockery and Crum, February 14, 2001)

Mr. Eric Hurst presented these cases explaining that the case stems from violations involving failure to timely submit a quarterly financial report, failure to maintain positive working capital, failure to include Axxess HR II, Inc., in the workers' compensation policy, and failure to maintain workers' compensation coverage for Axxess HR I, Inc. employees.

MOTION: Mr. Stroyan moved to accept the findings of facts and conclusions of law in the amended administrative complaint and impose penalties in accordance with the Board's guidelines.

SECOND: Ms. Bloomer seconded the motion and the motion passed unanimously.

MOTION: Mr. Stroyan moved to impose a \$5,000 fine plus costs and revocation of the license.

SECOND: Ms. Bloomer seconded the motion and the motion passed unanimously.

V. SETTLEMENT STIPULATIONS

Case#

- A. **Stephen M. Musco** **2001-00705**

Mr. Eric Hurst presented this case explaining that it stems from violations involving failure to timely submit a quarterly financial statement, failure to maintain positive working capital, failure to include AXXESS HR II, Inc. in the workers' compensation policy, and failure to maintain workers' compensation coverage for AXXESS HR I, Inc. employees. Mr. Hurst stated that the settlement stipulation provides for a \$500 fine, costs of \$465.18, and a reprimand.

MOTION: Ms. Bloomer moved to accept this settlement stipulation.

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

- B. Thomas Bean 2000-09644**
C. Total Employment Company, Inc. 2001-00214

Mr. Hurst presented this case explaining that the case stems from violations involving failure to pay its leased employees working for Southern their earned wages. Mr. Hurst stated that the settlement stipulation provides for a \$2,000 fine, costs of \$817.41, and a reprimand.

MOTION: Mr. Stroyan moved to accept this settlement stipulation.
SECOND: Ms. Bloomer seconded the motion and the motion passed unanimously.

- D. Jamie L. Keenan 2001-01747**
E. Employee Benefit Solutions, Inc. 2001-01748

Mr. Hurst presented this case explaining that the case stems from violations involving failure to submit its September 2000 Quarterly Report by its December 15, 2000 deadline. Mr. Hurst stated that in lieu of a finding of Probable Cause, Respondent paid administrative costs of \$300 (to include both cases) on September 19, 2001 and relinquished their licenses.

MOTION: Mr. Stroyan moved to accept the settlement stipulation.
SECOND: Ms. Bloomer seconded the motion and the motion passed unanimously.

Mr. Hurst stated that a disciplinary case status report was included in the agenda materials.

VI. EMPLOYEE LEASING COMPANY/ CONTROLLING PERSON APPLICATIONS

- A. Employer's Alliance V, LLC**
William J. Keel, CO 333
James C. Franklin, CO 576

Ms. Woodard presented this application stating that the Certificate of Insurance does not specifically reflect the applicant's name, and that in lieu of health affidavits, the applicant submitted a policy from AETNA.

MOTION: Mr. Stroyan moved to approve this application pending receipt of health affidavits.
SECOND: Ms. Bloomer seconded the motion and the motion passed unanimously.

- B. Employers Resource of America, Inc.**
George H. Gersema – CP Applicant

Ms. Woodard presented these applications stating that there was previous Board action for these applications. The leasing company's and Mr. Gersema's license were terminated/relinquished in 2001 for failure to maintain positive working capital. Ms. Woodard further stated that in lieu of submitting fictitious name documentation, the applicant submitted their Federal Trade Name information. Ms. Woodard added that other outstanding items included the Federal Bureau of Investigation (FBI) report for the

controlling person applicant.

Mr. Mike Miller, presented the Board and staff with appropriate fictitious name documentation.

After further discussion, Mr. Miller, counsel for the applicants, stated that he would waive the 90 day time frame until the next conference call to provide the Board and staff with additional application materials.

MOTION: Ms. Dockery moved to table discussion of the application.

SECOND: No Second

**C. AEM, Inc.
Darrin J. Fedder - CP Applicant**

Ms. Woodard presented these applications explaining that a letter from Florida Workers' Compensation Joint Underwriting Association, Inc. indicated that they would provide coverage once the license has been issued. She further stated that the controlling person's application appeared to be complete and that the FDLE and FBI reports had been received

MOTION: Ms. Bloomer moved to approve these applications.

SECOND: MS. Dockery seconded the motion and the motion passed unanimously.

**D. Dale Francis Schmidt I CP Applicant
PEOPLE Premier, Inc. – EL 230**

Ms. Woodard presented this application and stated that the application appears to be complete.

MOTION: Ms. Dockery moved to approve this application.

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

VII. CHANGE OF OWNERSHIP APPLICATIONS

**A. NBR Group III, Inc., - EL 252
Name Change to SHR Southeast, Inc.**

Ms. Woodard presented this application. She stated that this was a request for a Change of Location also. The proposed owners will be Spectrum HR, LLC and Co-Employer Services, Inc. The proposed controlling person will be J. Richard DiRose.

Ms. Woodard expressed concern with the historical sketch of Bert Danzig, which is 22% owner of Spectrum. She indicated that Mr. Danzig has prior bankruptcy proceedings.

Ms. Woodard further stated that after conversations with Ms. Echols, application processor, that Ms. Echols indicated that there was no record of a previous change of ownership in the licensure file.

Mr. Carlos Rodriguez indicated that he was not comfortable approving this application due to previous bankruptcy proceedings of Mr. Danzig and that he would prefer for Mr. Danzig, Mr. Calvert Courtney, and Mr. DiRose to appear before the board to answer questions about the credibility of Mr. Danzig's financial status and no record of the prior ownership change. Mr. Mike Miller, counsel for the applicants, indicated that he would request Mr. Danzig, Mr. Courtney, and Mr. DiRose to appear at the next in-person meeting of the Board. Additionally, Mr. Miller waived the 90-day time frame to allow the applicants to appear before the Board.

MOTION: Mr. Rodriguez moved to table discussion of this application until Mr. Danzig, Mr. Courtney, and Mr. DiRose could appear before the Board at the next in-person meeting.

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

B. ASMARA of Florida I, II, III and IV, Inc. – GL 92
Purchasers: Resourcing Solutions Group, Inc.
William R. Bellamy, CO 630

Ms. Woodard presented this application indicating that the application appears to be complete.

MOTION: Ms. Dockery moved to accept this application.

SECOND: Ms. Bloomer seconded the motion and the motion passed unanimously.

VIII. RULE DISCUSSION

Mr. Rimes and Mr. Miller, general counsel for the Florida Association of Professional Employer Organization (FAPEO) presented a draft proposed rule to Rule 61G7-6.001, F.A.C., Definitions. The rule defined "assumes responsibility for the payment of wages."

Mr. Miller stated to the Board that the next set of questions that clients would ask are, "What are wages and are they eligible for benefits, vacation time or bonuses under the proposed rule?" Mr. Miller further stated if the PEO wanted to assume the responsibility for the payment of wages, benefits, vacation time, etc., the PEO would need to have it stated in their contract. He indicated that the presumption should not be an obligation of the employee leasing company, unless the employee leasing company specifically agrees to it in the contract.

Mr. Rodriguez informed the Board that his company does not involve litigation in proceedings involving these types of discussion, due to the fact that they think that they are going to lose. He further stated that based on an interpretation that he had heard, the employee leasing company was responsible for payments of benefits, vacation time, etc.

Mr. Miller stated that he would disagree with that position and that is why this rule is being formulated. The rule would address if PEOs wanted to assume responsibility for payments of this nature, they could do so by way of a contract, otherwise, that would not be a responsibility of the PEO.

Ms. Dockery and Mr. Rimes agreed that if the rule is adopted that the "Notice to Employees" needs to explicitly stated that vacation time, sick time, etc. is not the responsibility of the PEO.

Mr. Stroyan stated that if the rule is adopted, the PEO would still get sued. However, if the rule is written in favor of the PEO and as general as possible as opposed to being specific and excluding certain things that the PEO may or may not have the right to defend in court, it would give the PEO more leverage.

After further discussion, the Board agreed to allow Mr. Rimes and Mr. Miller to continue to draft language defining "assumes responsibility for payment of wages" for presentation to the Board at a Rules Workshop in conjunction with its general board meeting tentatively scheduled for October 14 and 15 in Tampa.

Mr. Rimes suggested that FAPEO review the statutes and rules governing employee leasing companies for possible changes and make a presentation of their proposed changes at the October meeting.

IX. REPORTS

A. Office of the Attorney General – John Rimes

Mr. Rimes stated that he had no report, but that he would begin the process for rule changes.

B. Executive Director – Juanita Chastain

Ms. Chastain stated that she had no report but reminded the Board members to turn in their travel reimbursement forms for processing as soon as possible.

C. Office of the General Counsel – Eric Hurst

Mr. Hurst mentioned the prosecuting attorney's report and the unlicensed activity report contained in the agenda materials.

D. Chairperson – Celeste Dockery

Ms. Dockery stated that she had no report.

X. NEW BUSINESS

Mr. Stroyan asked Mr. Rimes if the Board could require historical sketches for any change of ownership. He further asked if the Board could change the statutes to state that any change of ownership or change of control or any material change in ownership would have to have Board approval.

Mr. Rimes indicated that was the reason for the Rules Workshop, to discuss any changes to the statutes or rules that the Board may have.

Mr. Skrob of FAPEO advised the Board that FAPEO's next meeting would be via telephone conference on July 2, 2003 and their next in-person meeting would be on August 8, 2003.

He further stated that he would relay the Board's request for FAPEO to review the statutes and rules and for FAPEO to make a presentation of their proposed changes at the Rules Workshop in October.

XI. OLD BUSINESS

Mr. Stroyan asked if the Board had received a position from the Department of Financial Services as to whether employee leasing companies utilizing client-based policies written either directly by an independent carrier or through the Florida Workers' Compensation Joint Underwriters Association, Inc. would be still be required under Chapter 440, Florida Statutes, to have a policy that does not exclude leased employees as a back-up should the client company's policy lapse.

Mr. Rimes stated that he had not and that he was still awaiting a letter from Mr. David Herschel.

XII. ELECTION OF OFFICERS

The Board voted to approve Ms. Celeste Dockery as the Board Chair and Mr. David Stroyan as the Vice Chair.

XIII. ADJOURNMENT

MOTION: Ms. Bloomer moved to adjourn.

SECOND: Mr. Lanza seconded the motion and the motion passed unanimously.

The meeting adjourned at 10:49 a.m.