

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
1940 NORTH MONORE STREET
TALLAHASSEE, FLORIDA 32399-0767**

**FEBRUARY 18, 2004
8:30 a.m. EST**

I. CALL TO ORDER

The meeting was called to order at approximately 8:33 a.m. EST by Ms. Celeste Dockery, Board Chair.

II. ROLL CALL

MEMBERS PRESENT

Celeste D. Dockery, Chair
Donna Bloomer
Frank W. Crum, Jr.
Kelly Lanza
Carlos Rodriguez

MEMBERS ABSENT

None

STAFF PRESENT

Jerry Wilson, Deputy Director, DBPR
Anthony B. Spivey, Executive Director, DBPR
Krista B. Woodard, Government Analyst II, DBPR
Michael Murphy, Acting Division Director, Service Operations, DBPR
John Rimes, Board Counsel, Office of Attorney General
Eric Hurst, Assistant General Counsel, DBPR
Michael Edenfield, OMC II (Auditor), DBPR
Karan Campbell-Everett, Program Lead, DBPR

OTHERS PRESENT

John Iriye, Esquire, Department of Financial Services
Michael Miller, Kunkel, Miller & Hament, P.A. and FAPEO
Robert Skrob, FAPEO
Lori Kinney, NES
Veronica Jackson, Florida Home Builders Insurance Co.
Ed Dougherty, Esquire, NES
Steven Steinberg, FAPEO
Ed Rawls, FAPEO
Ernie Norris, FAPEO
John Tenney, TENNCOM
Barry Jolly, McHenry Consulting
Linda Alcathie, The Nelco Companies
Ginny Dorris, The Nelco Companies

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

III. DEPARTMENTAL PRESENTATIONS

Mr. Spivey introduced himself and welcomed the board to Tallahassee. He also introduced Mr. Jerry Wilson, Deputy Director for Professions and Mr. Michael Murphy, Acting Division Director for Service Operations. He informed the board that Mr. Murphy prepared a presentation based upon their request from the last meeting.

Mr. Murphy addressed the board in reference to his areas of operation, which consists of the Customer Contact Center, the Central Intake Unit, and the Bureau of Education and Testing.

He advised the board that during the reorganization of the Department, a decision was made to pull these areas into a more standard and centralized area of operation. This process was to reduce costs, provide more consistency, leverage resources, and provide greater customer service.

He also provided a handout that included telephone numbers of the supervisors of the different areas.

Ms. Dockery credited Mr. Murphy and his staff for doing an excellent job in improving those areas. However, she is still receiving complaints on revenue and on-line application payments.

Mr. Murphy stated that he is currently working with Accenture to provide more flexibility and accessibility for on-line and credit card payments.

Ms. Dockery asked if the government is exempt from the surcharges for credit card payments.

Mr. Murphy stated that the government is not exempt from the surcharges, but the Department has budgeted for those fees.

After further discussion about on-line and credit card payment, Mr. Murphy invited the board and members of the audience to a tour of the Department.

IV. REVIEW AND APPROVAL OF THE JANUARY 21, 2004, TELEPHONE CONFERENCE CALL MEETING MINUTES

MOTION: Mr. Crum moved to approve the minutes.

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

V. DISCIPLINARY PROCEEDINGS

INFORMAL HEARING

Case

A. ACH Resources

2003-076649

(PCP: Lanza and Crum, December 11, 2003)

Mr. Eric Hurst presented the case explaining that it stems from violations involving failure to submit quarterly reports for the entire year of 2002 as required by Rule 61G7-10.001,

Florida Administrative Code. He further stated the Respondent requested through the Election of Rights form to have an Informal Hearing Not Involving Issues of Material Fact and that they would not be in attendance at the meeting and would allow the board to proceed in their absence.

MOTION: Mr. Bloomer moved to accept the findings of facts in the administrative complaint.

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

Mr. Hurst further stated that the Respondent will be relinquishing their license and terminating operations.

Mr. Rimes asked if the company filed annual reports for 2002 or 2003 and why weren't complaints filed against the controlling persons who were named in the complaint. He further stated that the board should file charges against the controlling persons in the initial complaint and not resolve the matter of termination of the license until all obligations have been met.

MOTION: Ms. Dockery moved to adopt the conclusions of law in the administrative complaint and impose a fine of \$100, costs of \$77.01, the requirement to file the missing reports and the filing of a complaint against the controlling persons of the company.

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

B. National Employer Solutions, Inc. 2003-076649
(PCP: Lanza and Crum, December 11, 2003)

Mr. Hurst presented the case stating that it was initially placed on the agenda as an Information Hearing, but subsequent to the agenda mailing, a signed settlement stipulation was received. He further stated that the case stems from violations involving failure to meet the net working capital requirement for the June 2002, September 2002, and December 2002 quarterly reports.

Mr. Hurst stated that the settlement stipulation provides that the Respondent acquire no new business in the state of Florida until all deficiencies have been cured or a guaranty obtained, submittal of monthly statements to the board office until all deficiencies have been cured or a guaranty obtained, costs of \$74.05, and subjection to further disciplinary action if the Respondent does not cure the deficiencies in whole or a guaranty obtained by the due date of the Respondent's June 30, 2004 annual report.

Mr. Edward Dougherty, Esquire, and Ms. Lori Kenny were present on behalf of the Respondent.

Ms. Dockery and Mr. Rodriguez stated that they had a problem accepting the settlement stipulation. They wanted to know the Respondents' present status as it relates to working capital.

Mr. Rodriguez asked if it was normal procedure to allow a company to operate with a negative working capital.

Ms. Dockery stated that she did not understand why a cease and desist had not been ordered.

Mr. Dougherty stated there is a continuing capital deficiency, but that was the reason for the restriction of no new business in the State.

The board requested to view the June 2003 annual and all subsequent financial reports to determine if the working capital deficit was increasing or decreasing.

Mr. Rimes suggested to staff when the contents of reports are at issue in a case (net worth, net working capital, etc.), the board or probable cause panel would like to view those reports in order to track the current or on-going status of the violations.

Mr. Rodriguez stated that according to the June 2003 annual financial statement and the quarterlies, it amazes him that this company has remained to stay afloat. He further stated that based on the information provided in statements, that there is barely enough cash to pay for the current liabilities listed. He asked how the company is paying current liabilities, if there are no current assets or cash, and where exactly is the cash coming from.

Ms. Dockery stated that it does not appear that the financial status of the company is improving. She further stated the last thing that she wanted to do was shut a leasing company down and jeopardize those employees and put them at risk, but she was very uncomfortable letting this proceed like it has until June.

Mr. Rodriguez asked if the company would be able to provide a guaranty that would cover Florida payroll.

Mr. Dougherty stated that it would not be a problem to get a guaranty that would cover the company's total exposure for the state of Florida.

Mr. Rimes stated the reason for the guaranty was to avoid a recommendation from the Secretary to issue a Cease and Desist.

Ms. Dockery requested that the guaranty be submitted to the board office within one week, and for the company to submit monthly financial statements.

After further discussion, the board decided to review the case, as an Informal Hearing per the Respondent's Election of Rights form, at the meeting to be held on April 21, 2004.

C. Medical Staffing Solutions, Inc. 2003-082943
(PCP: Lanza and Crum, December 11, 2003)

Mr. Eric Hurst presented the case explaining that it stems from violations involving failure to submit quarterly reports for the entire year of 2002 and the first quarter of 2003, and failure to submit an audited or reviewed financial statement for 2002. He further stated the Respondent has subsequently filed the missing reports and statements which showed a deficiency in 2002, which was corrected in 2003, and they are current in reports and capital at this time.

MOTION: Ms. Dockery moved to adopt the allegations of fact and conclusions of law in the administrative complaint as those of the board.
SECOND: Ms. Bloomer seconded the motion and it passed unanimously.

MOTION: Ms. Dockery moved to impose costs in the amount of \$77.01, a reprimand, and the filing of a complaint against the controlling persons.
SECOND: Ms. Bloomer seconded the motion and it passed unanimously.

MOTION FOR DEFAULT AND FINAL ORDER

A. United Staffing of America, LTD 2003-001155
(PCP: Lanza and Crum, June 18, 2003)

Mr. Eric Hurst presented the case explaining that it stems from violations involving failure to maintain workers' compensation coverage and failure to maintain current address of record.

MOTION: Ms. Dockery moved to accept the findings of fact and conclusions of law in the administrative complaint and impose penalties in accordance with the board's guidelines.
SECOND: Mr. Rodriguez seconded the motion and it passed unanimously.

MOTION: Ms. Dockery moved to impose costs in the amount of \$435.87 and revocation of the license.
SECOND: Mr. Rodriguez seconded the motion and it passed unanimously.

VI. EMPLOYEE LEASING COMPANY/CONTROLLING PERSON APPLICATIONS

A. EA Advantage, LLC.
Nylen Lee Allphin, Jr., CP Applicant

Ms. Woodard presented the applications stating that they were previously presented to the board at the January 21, 2004 board meeting. She further stated that at the January 21, 2004 meeting, the board requested more information on their methods of insurance for workers' compensation.

Ms. Woodard advised the board that the applicant's attorney provided a letter of explanation as to their methods of insurance.

MOTION: Ms. Dockery moved to approve the applications contingent upon the receipt of an attestation statement, which has been executed by all of the controlling persons, the CEO, the CFO, and the Chairman of the Board that reflects 100% client-based policies.
SECOND: Ms. Bloomer seconded the motion and it passed unanimously.

B. SDG Services, Inc.
Debra A. Girard, CP Applicant

Ms. Woodard presented the application stating that all exhibits were submitted and

complete. She further stated that instead of the certificate of insurance, Florida Workers Compensation Joint Underwriting Association (FWCJUA) submitted a letter citing workers' compensation coverage once approval of licensure is granted.

Mr. Rodriguez asked about the previous board action noted on the application checklist.

Ms. Girard was present and addressed the board regarding the previous board action. She informed the board she was previously licensed and was disciplined due to non-payment of the annual assessment fees for the company in which she was the controlling person for. She further stated that she paid the assessment and the fine that was imposed upon her.

MOTION: Ms. Dockery moved to approve the applications.

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

C. TENNCOM, Inc.

John W. Tenney, CP Applicant

Kathleen Tenney, CP Applicant

Ms. Woodard presented the applications stating that they were previously presented to the board at the January 21, 2004 board meeting. She further stated that at the January 21, 2004 meeting, the board requested the applicant to submit reviewed financial statements prepared in accordance with generally accepted accounting principles (GAAP), pursuant to Rule 61H1-22.003, F.A.C. and Standards for Accounting and Review Services (SARS), pursuant to Rule 61H1-22.004, F.A.C. audited or reviewed by an independent certified public accountant.

Ms. Woodard advised the board that the CPA for the applicant submitted revised financial statements in accordance with GAAP and SARS.

MOTION: Ms. Bloomer moved to approve the application.

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

D. Ryan Stuart Moore, CP Applicant

E. Group, Inc. – GL 87

Ms. Woodard presented the application stating that the only outstanding item relating to the application is the FBI report.

MOTION: Ms. Bloomer moved to approve the application with the condition that should any derogatory information be revealed on the report that the applicant would appear before the board.

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

E. Gregory G. Gannon, CP Applicant

Payrolling Partners, Inc. – EL 34

Ms. Woodard presented the application stating that it appeared to be complete.

MOTION: Ms. Bloomer moved to approve the application.
SECOND: Ms. Lanza seconded the motion and it passed unanimously.

VII. DE MINIMUS EXEMPTION AND REGISTRATION APPLICATION

A. The Outsource Group, LLC

Ms. Woodard presented the application stating that the applicant submitted a separate policy for each client and a letter from the Vice-President of the insurance company pertaining to these policies.

Ms. Woodard referenced the fact that Mr. Rimes had previously denied the applicant's contract on November 5, 2003. A notice was mailed to the applicant pertaining to the deficiencies in the contract on November 14, 2003. The applicant's response to the deficiencies was received on February 2, 2004, stating that they felt that the current contract was correct.

Mr. Rimes stated the contract still had the same problems that were listed on the deficiency notice, such as the language for the responsibility for the payment of wages.

MOTION: Mr. Crum moved to deny the application for failure to have a contract that complies with the requirements of the Statutes.
SECOND: Mr. Rodriguez seconded the motion and it passed unanimously.

VIII. CHANGE OF OWNERSHIP APPLICATION

A. Payrolling Partners, Inc. – EL 34

Ms. Woodard presented the application stating Mr. Gregory Gannon would be the new owner and controlling person for the company. She further stated that Ms. Jodi Konvit, the current controlling person, wishes to relinquish her license upon approval of the change of ownership.

MOTION: Mr. Crum moved to approve the application and the controlling person relinquishment.
SECOND: Mr. Rodriguez seconded the motion and it passed unanimously.

IX. EMPLOYEE LEASING COMPANY NAME CHANGES

A. Associated Human Resource Corp. – GM 143 TO: Paradyme, Inc.

B. Mullis Employee Management, Inc. – GL 87 TO: E Group, Inc.

Ms. Woodard presented the applications stating that the applications are complete.

MOTION: Mr. Crum moved to approve the applications.
SECOND: Mr. Rodriguez seconded the motion and it passed unanimously.

X. CONTROLLING PERSON RELINQUISHMENTS

A. Charles W. Ingram – CO 530

Smart Payroll Solutions, Inc. – GL 75
Smart Payroll Solutions II, Inc. – GM 159
Smart Payroll Solutions III, Inc. – GM 160

Ms. Woodard presented the relinquishment stating that there were no complaints pending against the licensee.

MOTION: Ms. Lanza moved to accept the relinquishment.

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

XI. REPORTS

A. Office of the General Counsel – Eric Hurst

Mr. Hurst reported that the prosecuting attorney's report and the unlicensed activity report was included in the agenda materials.

He also reported that the requested revisions to Rule 61-32.002, F.A.C. could not be done, at this time, because the timeframe in the Rule is statutory. The changes will not be included in the Department's Legislative package this year.

B. Chairperson – Celeste Dockery

No Report.

C. Executive Director – Anthony B. Spivey

Mr. Spivey reviewed the first quarter finances with the board explaining the cash balances in the operating and unlicensed activity accounts.

Mr. Spivey informed the board that renewal notices have been mailed to all licensees for the upcoming April 30, 2004 renewal period. He also briefed the board that the annual assessment letters will be mailed during the first week in March.

XII. NEW BUSINESS

Mr. Rimes informed the board that his Paralegal is in the process of noticing the rule changes for discussion as soon as she receives information on the effective date of the forms referenced.

XIII. OLD BUSINESS

None

XIV. ELECTION OF OFFICERS

The Board voted to re-elect Ms. Celeste Dockery as the Board Chair and elect Mr. Carlos Rodriguez as the Vice Chair.

XV. ADJOURNMENT

MOTION: Ms. Lanza moved to adjourn.

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

The meeting adjourned at 10:33 a.m.