

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

**THE RENAISSANCE TAMPA HOTEL INTERNATIONAL PLAZA
4200 JIM WALTER BLVD.
TAMPA, FLORIDA 33607**

**October 19, 2005
10:00 a.m. EST**

I. CALL TO ORDER

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

II. ROLL CALL

MEMBERS PRESENT

Celeste D. Dockery, Chair
Frank W. Crum, Jr.
Kelly Lanza
Ryan S. Moore

MEMBER ABSENT

Carlos Rodriguez, Vice Chair

STAFF PRESENT

John T. Knap, Executive Director, DBPR
Krista B. Woodard, Government Analyst II, DBPR
Tom Barnhart, Board Counsel, Office of Attorney General
Eric Hurst, Assistant General Counsel, DBPR

OTHERS PRESENT

Lee Pease, Investigation Manager, Department of Financial Services
Tasha Carter, Government Analyst, Department of Financial Services
Michael Miller, Kunkel, Miller & Hament, P.A. and FAPEO
Timothy Tack, Kunkel, Miller & Hamet, P.A.
Mary E. Blazer, Court Reporter
Eldridge Bravo
Glen Distefano
Rafael J. Perez
Scott Buchanan
Terry Koch
Greg D'Ambrosio

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

Ms. Woodard informed the board that Mr. Rodriguez would not be attending the meeting due to a previously scheduled appointment.

III. PRESENTATION

**A. Ronald A. Safford, Coordinator
Alternative Dispute Resolutions Program, DBPR**

Ms. Dockery informed that Mr. Safford was not able to attend the meeting and would be rescheduled to make his presentation at the meeting tentatively scheduled for February 15, 2006 in Tallahassee, Florida.

**IV. REVIEW AND APPROVAL OF THE SEPTEMBER 21, 2005, TELEPHONE
CONFERENCE CALL MEETING MINUTES**

MOTION: Mr. Moore moved to approve the minutes.

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

**V. REVIEW AND CONSIDERATION OF EMPLOYEE LEASING COMPANY AND
CONTROLLING PERSON APPLICATIONS**

**A. ALPHA FLA 6, Inc.
Robert Beck II, CO 329
Jay Starkman, CO 648**

Ms. Woodard presented the application stating it is an application to become a member of the group AlphaStaff, Inc., license number GL 49. She further stated that all exhibits were submitted and workers' compensation was confirmed by the Department of Financial Services (DFS) on September 21, 2005.

MOTION: Ms. Lanza moved to approve the application.

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

**B. The Human Resource Enterprise Corp.
Lawrence H. Haber, Controlling Person Applicant**

Ms. Woodard presented the company's application stating that all exhibits were submitted and complete. She further stated that along with the certificate of insurance, the applicant submitted a letter from the insurance agent advising of workers' compensation coverage.

Ms. Woodard informed the board that workers' compensation was conformed by DFS on October 7, 2005.

Ms. Woodard advised that the only outstanding item pertaining to the company's application is approval of the contract by Ms. Clark.

Mr. Miller stated the contract is the same standard contract that has been previously approved by counsel, but due to counsel's illness she had not had a chance to review it.

Ms. Lanza stated it is the same contract as previously submitted applicants.

Ms. Woodard presented the controlling person application of Lawrence Haber stating all exhibits were submitted and complete and the only outstanding items are the criminal history reports from the Florida Department of Law Enforcement (FDLE) and the Federal Bureau of Investigations (FBI).

Mr. Mike Miller represented the applicant stating should anything derogatory be revealed on the criminal history reports that Mr. Haber would subject himself to the jurisdiction of the board.

MOTION: Ms. Lanza moved to approve the company's application pending approval of the contract by Ms. Clark.

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

MOTION: Mr. Crum moved to approve the controlling person application of Mr. Haber with the condition that should any derogatory information be revealed on the criminal history reports that Mr. Haber would appear before the board.

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

**C. Southeastern Staffing II, Inc.
D. Southeastern Staffing III, Inc.
Howard Brill, CO 554
Robert Larkin, CO 582**

Ms. Woodard presented the applications stating they are applications to become group members of Southeastern Staffing, Inc. license number GL 8. She further stated that all exhibits were submitted and complete and workers' compensation was confirmed by DFS on October 4, 2005.

Mr. Terry Koch was present and represented the applicants.

Mr. Moore asked for clarification into the explanation of the Chapter 11 filings listed on

the application.

Mr. Miller stated the board licensed Mr. Larkin as a controlling person previously with the same information about the filings listed on his application.

Mr. Moore stated if the Chapter 11 bankruptcy filings were listed on Mr. Larkin's application for a controlling person's license and he was approved for licensure then he had no problems with it now.

MOTION: Mr. Moore moved to approve the applications.

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

**E. Taber Chadwick, Inc. dba Freedom HR
Taber Chadwick, Controlling Person Applicant**

Ms. Woodard presented the company's application stating that all exhibits were submitted and complete. She further stated that along with the certificate of insurance, the applicant submitted a letter from the insurance carrier advising of workers' compensation coverage.

Ms. Woodard presented the controlling person application of Taber Chadwick stating all exhibits were submitted and complete and the only outstanding items are the criminal history reports from the FDLE and the FBI.

Mr. Mike Miller represented the applicant stating should anything derogatory be revealed on the criminal history reports that Mr. Chadwick would subject himself to the jurisdiction of the board.

Ms. Dockery recused herself from the vote due to the applicant being her husband.

MOTION: Mr. Crum moved to approve the applications with the condition that should any derogatory information be revealed on the criminal history reports that Mr. Chadwick would appear before the board.

SECOND: Mr. Moore seconded the motion and it passed.

**F. Mark Merrill Davidoff, Controlling Person Applicant
O2 HR, LLC – EL 328**

Ms. Woodard informed the board that the application had been withdrawn at the request of the applicant's attorney, Mr. Mike Miller.

**G. Sergio Rene Fernandez, Controlling Person Applicant
ADP TotalSource, Inc. – GM 226
ADP TotalSource DE IV, Inc. – GM 225
ADP TotalSource FL XI, Inc. – GM 11
ADP TotalSource FL XIII, Inc. – GM 10
ADP TotalSource FL XXIX, Inc. – GM 180
ADP TotalSource I, Inc. – GL 33
ADP TotalSource II, Inc. – GM 48**

ADP TotalSource III, Inc. – GM 86
ADP TotalSource MI VI, LLC – GM 209
ADP TotalSource MI VII, LLC – GM 210
ADP TotalSource MI XXX, Inc. – GM 186
ADP TotalSource of CO XXIII, GM 187
ADP TotalSource NH XXVIII, Inc. – GM 281

Ms. Woodard presented the application stating that all exhibits were submitted and complete and the criminal history reports from the FDLE and the FBI were returned clear.

Ms. Dockery asked if Mr. Fernandez or his counsel was present to answer questions the board had about his application.

Mr. Miller stated he has represented ADP in the past and was sure they would not mind if he agreed as counsel to table discussion of the application until the next meeting.

Mr. Miller stated as counsel for Mr. Fernandez that he wishes to waive the timeframe requirement and that Mr. Fernandez would appear before the board at the next scheduled meeting.

MOTION: Ms. Dockery moved to table discussion of Mr. Fernandez' application until the November 8, 2005 meeting at which time he would appear before the board.

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

H. Rafael J. Perez, Controlling Person Applicant
Matrix Employee Leasing, Inc. – EL 212

Ms. Woodard presented the application stating that all exhibits were submitted and complete and the only outstanding items are the criminal history reports from the FDLE and FBI.

Mr. Mike Miller represented the applicant stating should anything derogatory be revealed on the criminal history reports that Mr. Perez would subject himself to the jurisdiction of the board.

MOTION: Ms. Lanza moved to approve the application with the condition that should any derogatory information be revealed on the criminal history reports that Mr. Perez would appear before the board.

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

VI. REVIEW AND CONSIDERATION OF DE MINIMIS EXEMPTION AND REGISTRATION APPLICATIONS

A. Nextep Business Solutions, Inc.
(Nextep, Inc. Owner)

Ms. Woodard presented the application stating all exhibits were submitted and complete. She further stated that workers' compensation coverage was confirmed by DFS on October 19, 2005.

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

**B. BCA Employee Management Group, Inc.
(Timothy Carroll and Eric Coleman, Owners)**

Ms. Woodard presented the application stating all exhibits were submitted and complete. She further stated that workers' compensation coverage is being provided by the Florida Workers' Compensation Joint Underwriting Association (FWCJUA).

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

VII. REVIEW AND CONSIDERATION OF TERMINATION OF EMPLOYEE LEASING COMPANY OPERATIONS

A. Progressive Employer Services II, Inc. – GM 223

Ms. Woodard presented the termination stating there were no complaints open or pending against the licensee.

MOTION: Ms. Lanza moved to accept the termination.
SECOND: Mr. Moore seconded the motion and it passed unanimously.

VIII. REVIEW AND CONSIDERATION OF CONTROLLING PERSON RELINQUISHMENTS

**A. Scott D. Kraska – CO 679
American Business Solutions, Inc. – GL 93
ABS 2, Inc. – GM 217
ABS 3, Inc. – GM 218
ABS 4, Inc. – GM 219
Employee Professionals – North East, LLC – GL 106
HHG III, Inc. – GM 266
RSK Group, Inc. – GM 220**

Ms. Woodard presented the relinquishment stating there were no complaints pending against the licensee. She further stated that controlling persons remain with the companies listed.

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

IX. REVIEW AND CONSIDERATION OF EMPLOYEE LEASING COMPANY NAME CHANGES

**A. AEM, Inc. – EL 270
dba Mirabilis HR**

Ms. Woodard presented the application stating it is a request for a fictitious name registration. She further stated the application is complete and there were no complaints pending against the company.

MOTION: Mr. Moore moved to approve the application.

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

**B. Equity Group Leasing I, Inc. – EL 288
dba Southern Resource Services**

Ms. Woodard presented the application stating it is a request for a fictitious name registration. She further stated the application is complete and there were no complaints pending against the company.

MOTION: Mr. Moore moved to approve the application.

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

X. REPORTS

A. Office of the Attorney General – Tom Barnhart

Mr. Barnhart advised the board that Rule 61G7-10.002(4) (c), F.A.C. will go into effect on October 23, 2005. The language of that section of the rule is as follows:

“The company will be required to provide evidence of workers’ compensation coverage in the new company name.”

B. Executive Director – John T. Knap

Mr. Knap reviewed with the board the Operating and Unlicensed Activity Financial Reports contained in the agenda materials. He mentioned that the account balances are almost equivalent to the year 2004.

He also reviewed the Office of General Counsel’s Unlicensed Activity Report contained in the agenda materials.

Ms. Dockery asked if there had been any discussions of another cash sweep happening this year.

Mr. Knap stated he had not received any information about another cash sweep.

C. Office of the General Counsel – Eric Hurst

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

Mr. Hurst encouraged all board members to be in attendance at the November 8, 2005 meeting due to a lengthy disciplinary agenda and a quorum must be established.

Ms. Dockery asked if any there was an update on the status of the appointment of new board members.

Mr. Hurst stated that he had received notice that the pending applications received in the Governor's Appointment Office were not for consumer members and would not solve the board's problem at this time.

Mr. Moore stated there was a meeting scheduled with the Governor to make the two consumer member appointments, but it was postponed due to Hurricane Wilma and rescheduled for the first week in November. He stated hopefully one consumer member would be appointed by the November meeting, but no promises are being made.

D. Chairperson – Celeste Dockery

Mr. Hurst reminded Ms. Dockery to read onto the record the matter of legislative interpretation of the workers' compensation discussion that occurred at the meeting on October 18, 2005.

Ms. Dockery stated she was informed, that personally or as individual board members, that if they made a ruling or made certain decisions about the interpretation of the laws, they could be held personally liable. She stated she did not want to make a decision on what she believed to be her interpretation of the statute and then turn around and be personally liable.

Mr. Hurst stated the board collectively summarize that it was the legislative intent that all licensees have workers' compensation coverage regardless of the number of employees or clients that they may or may not have.

Mr. Knap read for the record Section 455.209, F.S. Accountability and Liability of Board Members. This section stated in part that "each board members shall be exempt from civil liability for any act or omission when acting in the member's official capacity, and the department shall defend any such member in any action against any board or member of a board arising from any such act or omission..."

Mr. Miller stated his interpretation of the board's action at the Legislative Discussion Meeting on October 18, 2005 was for a letter of guidance to be issued with a grace period of 30 days for current cases.

Mr. Hurst stated his interpretation was, beginning today, the board would enforce the interpretation that all licensees are required to have workers' compensation coverage regardless of the number of employees or clients the company may or may not have.

He stated pending cases would be issued a letter of guidance and any new cases would be cause for disciplinary action.

Ms. Dockery mentioned a conversation she had with Mr. Jerry Lancaster of Providence Property and Casualty in which he suggested if there was a way to work with these companies that his workers' compensation company would issue them a policy, with certain limitations, but he would have to confer with his counsel.

Ms. Lanza asked if there was a way to refine the rule to indicate the board's intent or interpretation to reflect more specific language.

Mr. Barnhart advised the board they could propose rulemaking and try to clarify the board's interpretation of the statute.

Ms. Dockery stated she is suggesting the board propose rulemaking to reflect the board's interpretation of all employee leasing companies having workers' compensation coverage.

After further discussion, the board made the following motion:

MOTION: Ms. Dockery moved to proceed with rulemaking to clarify the board's intention of all employee leasing companies having workers' compensation coverage.

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

Ms. Dockery asked Mr. Miller to address the board in reference the proposed Committee Bill that would allow for revision of the employee leasing statutes.

Mr. Miller informed the board that FAPEO wants to revise the statute to state that all employee leasing applicants would be required to have a tangible accounting net worth of not less than \$100,000 and thereafter a net worth of \$100,000.

Ms. Dockery asked if FAPEO had contemplated the small employers' responses to this.

Mr. Miller stated FAPEO had and that obviously there are some small employers that are not in support of this. He further stated that he does not think that FAPEO as received any objections this proposal.

Mr. Miller stated FAPEO understands the needs of small businesses and in no way wants to impact the ability of a small business from getting into the employee leasing arena.

Mr. Miller stated the Bill also suggests that each employee leasing company shall at all times maintain a workers' compensation policy or as allowed by Chapter 440, F.S., a lawful plan of self-insurance.

After further discussion, Ms. Dockery asked Mr. Miller to be prepared to discuss any revisions made by the board or FAPEO at the February 2006 meeting.

XI. NEW BUSINESS

None

XII. OLD BUSINESS

None

XIII. ADJOURNMENT

MOTION: Mr. Crum moved to adjourn.

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

The meeting adjourned at 11:33 a.m.