

**BOARD OF EMPLOYEE LEASING COMPANIES
TELEPHONE CONFERENCE CALL MEETING MINUTES
WEDNESDAY, JANUARY 19, 2005
10:00 a.m. EST**

MEET-ME-NUMBER: (850) 414-1707

I. CALL TO ORDER

The meeting was called to order at approximately 10:03 a.m. EST by Ms. Celeste Dockery, Board Chair.

II. ROLL CALL

MEMBERS PRESENT

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

MEMBERS ABSENT

None

STAFF PRESENT

Jerry Wilson, Deputy Director, DBPR
Anthony Spivey, Executive Director, DBPR
Krista B. Woodard, Government Analyst II, DBPR
Mary Ellen Clark, Board Counsel, Office of the Attorney General
Lauren Green, Law Clerk, Office of the General Counsel, DBPR

OTHERS PRESENT

Tasha Carter, Department of Financial Services
Michael Miller, Kunkel, Miller & Hament, P.A. and FAPEO
Timothy Tack, Kunkel, Miller & Hament, P.A.
Bonnie Miller, PEP
Ellen Brady, PEP
Douglas Lowery
J.C. Dominguez
Alan Cooperberg
John Rousseau
Vincent Carter

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

III. REVIEW AND APPROVAL OF THE DECEMBER 15, 2004 GENERAL BUSINESS MEETING MINUTES

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

IV. EMPLOYEE LEASING COMPANY AND CONTROLLING PERSON APPLICATIONS

**A. ADP TotalSource NH XXVIII, Inc.
Carlos Rodriguez, CO 421
Robert Singer, CO 385
Miguel Maseda, CO 508**

Ms. Woodard presented the application stating all exhibits were submitted and complete. She further stated workers' compensation coverage was confirmed by the Department of Financial Services on January 4, 2005.

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

**B. Jobs On the Beach, Inc.
Vincent Carter, CO 604**

Ms. Woodard presented the application stating all exhibits were submitted and complete. She further stated workers' compensation coverage was confirmed by the Department of Financial Services on January 5, 2005.

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

**C. Prestige Employee Administrators of Florida, Inc.
Alan Cooperberg, Controlling Person Applicant**

Ms. Woodard presented the company's application stating all exhibits were submitted and complete. She further stated workers' compensation coverage was confirmed by the Department of Financial Services on January 5, 2005.

Ms. Woodard presented the controlling person application stating the only outstanding items are the reports from the Florida Department of Law Enforcement (FDLE) and the Federal Bureau of Investigations (FBI).

Mr. Miller was present and represented Mr. Cooperberg stating should anything derogatory be revealed on the criminal history reports that Mr. Cooperberg would subject himself to the jurisdiction of the board.

MOTION: Ms. Dockery moved to approve the applications with the condition that should any derogatory information be revealed on the reports that Mr. Cooperberg would appear before the board.
SECOND: Mr. Crum seconded the motion and it passed unanimously.

**D. Alfred Wayne Brown, Controlling Person Applicant
Total Leasing Company, Inc. – EL 219**

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

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

V. REVIEW AND CONSIDERATION OF DE MINIMIS EXEMPTION AND REGISTRATION APPLICATION

A. Employee Resource Administration, LP
Diane Axline, Partner
Frank Timmins, Partner
Bill Deviney, Partner
Sharon McReynolds, Partner
Michael Ribelin, Partner
Thomas Sellers, Partner

Ms. Woodard presented the application stating all exhibits were submitted and complete and historical sketches for each partner were included in the agenda materials.

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

VI. REVIEW AND CONSIDERATION OF CHANGE OF OWNERSHIP APPLICATIONS

A. Harbor America Florida, Inc. – EL 243
Douglas Lee Lowery, CO 535
Terry Lee Witt, CO 537
(Maria Flora Rhodes, CO 627, CP Relinquishment)

Ms. Woodard presented the application stating that Douglas Lee Lowery, CO 535, and Terry Lee Witt, CO 537 would be the new owners and controlling persons for the company. She further stated that Ms. Maria Flora Rhodes, current owner and controlling person, wishes to relinquish her license upon approval of the change of ownership.

MOTION: Mr. Moore moved to approve the application and the controlling person relinquishment.
SECOND: Ms. Dockery seconded the motion and it passed unanimously.

B. HHG I, Inc. – EL 304
Henry C. Hardin, CO 51
J.C. Dominguez, CO 371

Ms. Woodard presented the application stating that Henry C. Hardin, CO 51, and J.C. Dominguez, CO 371, would be the new owners and controlling persons for the company.

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

**C. Pay Centers of America, Inc. – EL 267
Richard Garcia, CO 318**

Ms. Woodard advised the board this application was being pulled from the agenda at the request of the applicant's attorney, Mr. Michael Miller.

VII. REVIEW AND CONSIDERATION OF EMPLOYEE LEASING COMPANY NAME CHANGES

**A. Personnel Resources, LLC
NAME CHANGE TO: Personnel Resources of GA, Inc.**

Ms. Woodard presented the application stating it is complete.

MOTION: Ms. Dockery moved to approve the application.

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

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

A. EPIX III, Inc. – EL 78

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

Ms. Dockery asked what were the specifics surrounding the termination.

Ms. Woodard stated the termination was forwarded to her from Mr. Eric Hurst. She further stated she had no additional information as to the termination other than what was included in the agenda materials.

Ms. Woodard asked Ms. Lauren Green, Mr. Hurst's Law Clerk, if she had any information pertaining to the termination.

Ms. Green stated she did not have any additional information.

Mr. Spivey asked the board if they would like to table discussion of the termination until the February 2005 meeting to allow Mr. Hurst to provide more information.

The board agreed to table discussion of the termination until the February 2005 meeting to allow Mr. Hurst to provide additional information.

B. MRG Leasing Group V, Inc. – GM 246

Ms. Woodard presented the termination stating there are no open or pending complaints against the licensee. She further stated MRG Leasing Group V, Inc. was terminating its relationship with Professional Employer Plans, Inc, and was approved for a change of ownership with Co-Advantage Resources, Inc. at the December 15, 2004 meeting.

Mr. Miller asked if this termination released MRG Leasing Group V, Inc. from its cross guaranties with Professional Employer Plans, Inc.

Ms. Clark stated the cross guaranties with Professional Employer Plans, Inc. is no longer required and that the board recognizes the guaranties with Co-Advantage Resources, Inc.

MOTION: Mr. Moore moved to accept the termination.

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

C. Southeastern Professional Employers, Inc. – GM 47

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. Crum seconded the motion and it passed unanimously.

IX. REPORTS

A. Office of the Attorney General – Mary Ellen Clark

1. Rules Report

Ms. Clark stated, as practice of the boards that she works with, she will provide regular rule reports to keep track of all the rules that are being developed and the status of the rules. She further stated at the last board meeting, the board asked her to notice Rule 61G7-5.002, Florida Administrative Code for rule development. She advised that rule is now available for change and they could discuss proposed language.

Ms. Dockery stated if she remembered correctly, it was the desire of the board to have a stay or waiver of the assessment fees for this year.

Mr. Spivey advised the board that Florida Statutes requires the board to establish an assessment fee and the only way to allow for a waiver or stay of the fees would have to be granted by the Governor. However, if the board wishes to change the assessment fee amount, it would have to be done by rule change and changed back at a later date through the same process.

Mr. Miller stated the industry wants the Department and board to have sufficient funds to accomplish its needs for this year, but fears another cash sweep.

Ms. Dockery asked if expenses for the board were expected to be greater this year versus previous years.

Mr. Spivey advised he did not know of any additional expenses thus far, but there is the possibility of more expenses being brought to the board for payment. He stated this assumption was based on speculations only.

Ms. Clark advised the board that when the Legislature does the cash sweeps, they will not sweep the board below what is required to maintain operations.

Mr. Jerry Wilson informed the board that he had taken note of their concerns as well as the concerns of other boards regarding the possibility of another cash sweep and their finances, but he wanted the board to be aware that there wasn't a cash sweep last session.

Ms. Dockery asked if recommendations for rule changes could be made at this time.

Ms. Clark answered "yes."

After further discussion, the following motion was made:

MOTION: Mr. Moore made a motion to reduce assessment fees in half for this year.

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

Ms. Clark continued her report advising the board she inherited five rules in process that had letters from the Joint Administrative Procedures Committee (JAPC) and Suzanne Printy, and John Rimes' paralegal responded addressing all of their concerns. She further stated those rules should continue in process and will have an effective date soon.

Ms. Clark informed the board that Rule 61G7-11.001, FAC, became effective January 11, 2005.

A. Executive Director – Anthony B. Spivey

Mr. Spivey advised the board that Ms. Woodard faxed a copy of the report prepared by Ms. Lisa Johnson with the Senate Banking and Finance Committee regarding deterring insurance fraud by employment agencies and wanted input from the board.

Mr. Miller stated that the Florida Association of Professional Employer Organization (FAPEO) will be holding a meeting on February 1, 2005 and will be preparing a response to the report.

Mr. Spivey briefly reviewed the eight recommendations listed in the report with the board.

The members of the board agreed with the first recommendation listed in the report that would require employee leasing companies to maintain \$50,000 net worth after initial licensure.

Several comments were made regarding the second recommendation that would require all employee leasing companies to submit annual audited financial statements rather than limiting this requirement to leasing companies with a payroll of greater than \$2.5 million.

Ms. Dockery stated when the law was originally created, discussion ensued as to why companies with less than \$2.5 million could not afford an audited financial statement.

Mr. Rodriguez stated the audited financial statements provided more relevant information versus a reviewed statement, but asked if the Committee posed any exemption recommendations.

Several members of the board agreed with the third recommendation as it relates to having someone from the insurance industry as member of the board. However, they as well as Mr. Miller representing FAPEO, was opposed to the transfer of the regulation of employee leasing companies to the Department of Financial Services.

Ms. Dockery asked why members of the board were not asked to participate in this study.

Mr. Rodriguez stated he was contacted by Ms. Johnson, but assumed she was getting comment from the other board members as well.

Mr. Miller stated Ms. Johnson did get comment from FAPEO, but all issues raised by Ms. Johnson was not reflected in the report. He further stated some of the comments in the report were incorrect.

Members of the board commented that the second sentence in the fourth recommendation made more sense for the industry, stating the Legislature might consider continuing the use of master policies, but require employee leasing companies to provide unit statistical data on each client on a scheduled basis.

Members of the board agreed with the fifth recommendation of amending the workers' compensation law and the employee leasing law to allow client companies to obtain workers' compensation coverage directly rather than the employee leasing company. However, Mr. Miller stated he disagreed with the recommendation.

The board agreed with the sixth recommendation as it relates to providing greater specificity and authority in the law regarding the type, frequency, and format of information that employee leasing companies are required to report to the Division of Workers' Compensation within the Department of Financial Services.

The board agreed with the seventh recommendation as it relates to revising the 30-day deadline for employee leasing companies to report termination and initiation of client companies to conform to the 5-day deadline for termination notice prescribed in the Insurance Code.

Ms. Lanza stated there was a recent change from 30-day notification to 10-day notification with regards to workers' compensations.

The board agreed that the notice should be changed from 5-days notification to 10-days notification.

The board agreed with the eighth recommendation as it relates to clarification of the definition of temporary versus long-term employment services.

B. Chairperson – Celeste Dockery

None

X. NEW BUSINESS

None

XI. OLD BUSINESS

None

XII. ADJOURNMENT

MOTION: Mr. Moore moved to adjourn.

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

The meeting adjourned at 11:32 a.m.