

**BOARD OF EMPLOYEE LEASING COMPANIES  
GENERAL BUSINESS MEETING MINUTES  
EMBASSY SUITES HOTEL ORLANDO DOWNTOWN  
191 EAST PINE STREET  
ORLANDO, FLORIDA 32801**

**April 20, 2005  
10:00 a.m. EST**

**I. CALL TO ORDER**

The meeting was called to order at approximately 10:00 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**

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

**OTHERS PRESENT**

Michael Miller, Kunkel, Miller & Hament, P.A. and FAPEO  
Timothy Tack, Kunkel, miller & Hament, P.A.  
Hardy Roberts, Esquire  
Linda Alcathie, The NELCO Companies  
John Tenney, TENNCOM Group  
Martha Smith  
Karl Mohr, Accord HR  
Jerry Lancaster, Providence Property & Casualty  
C.J. Howard, Howard Leasing  
Chuck Howard, Howard Leasing  
David Carls, Howard Leasing  
Wayne Brown, Total Leasing Co.  
Jody Friedman, Moore Employer  
Tasha Carter, Department of Financial Services  
Marc Fortune, Century II Staffing

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

**III. REVIEW AND APPROVAL OF THE MARCH 16, 2005, TELEPHONE CONFERENCE CALL MEETING MINUTES**

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

**IV. DISCIPLINARY PROCEEDINGS – Office of the General Counsel**

**A. SETTLEMENT STIPULATIONS Case #**

**1. Total Leasing Company 2004-048888**  
**(PCP: Crum and Moore, December 15, 2004)**

Mr. Eric Hurst presented the case explaining that it stems from violations involving practice as an employee leasing company without a licensed Controlling Person, and engaging Alfred W. Brown, an unlicensed person, as a Controlling Person. Mr. Hurst stated that the settlement stipulation provides for an administrative fine in the amount of \$1000, costs of \$59.24 and a reprimand.

Mr. Hurst informed the board the fine and costs have been paid.

Mr. Crum and Mr. Moore were recused.

MOTION: Ms. Dockery moved to adopt the settlement stipulation as the final order of the board.

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

**B. HEARING IN WHICH THERE ARE NO DISPUTED FACTS Case #**

**1. Equity Concepts, Inc. 2004-002080**  
**Vance Yarter 2004-016874**  
**(PCP: Lanza and Crum, August 18, 2004)**

Mr. Eric Hurst presented the case explaining they stem from violations involving failure to submit quarterly financial statements for the quarters ended June 30, 2003 and September 30, 2003, failure to maintain positive working capital for the quarters ended December 31, 2003 and March 31, 2004, and failure to maintain workers' compensation coverage.

Mr. Mike Miller was present and represented the Respondents stating because of a business emergency Mr. Yarter was unable to attend.

Mr. Miller further stated Mr. Yarter was in favor of continuing the case if the board agreed.

Mr. Crum and Ms. Lanza were recused.

MOTION: Ms. Dockery moved to postpone discussion of the cases until the June 2005 board meeting.

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

**V. EMPLOYEE LEASING COMPANY/CONTROLLING PERSON APPLICATIONS**

**A. Accord Personnel Services, Inc.  
John L. Jones, CO 321  
Dale Hageman, CO 180**

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

Mr. Miller was present and represented the applicant.

MOTION: Ms. Lanza moved to approve the application.

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

**B. GLC Group II, Inc.  
Marshall Glass, CO 311**

Ms. Woodard presented the application stating that all exhibits were submitted and complete. She further stated Florida Workers' Compensation Joint Underwriting Association (FWCJUA) submitted a letter citing workers' compensation coverage once approval of licensure is granted.

MOTION: Mr. Moore moved to approve the application.

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

**C. GLC Group III, Inc.  
Marshall Glass, CO 311**

Ms. Woodard presented the application stating that all exhibits were submitted and complete. She further stated Florida Workers' Compensation Joint Underwriting Association (FWCJUA) submitted a letter citing workers' compensation coverage once approval of licensure is granted.

MOTION: Ms. Lanza moved to approve the application.

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

**D. Howard Leasing, Inc.  
Charles P. Howard, Controlling Person Applicant  
Charles J. Howard, Controlling Person Applicant**

Ms. Woodard presented the applications explaining they were presented to the board at the March 16, 2005 meeting. She stated at that meeting, the board tabled discussion of the applications until all relevant information pertaining to the investigative report, administrative complaint, settlement stipulation, and final order could be provided to the board for review.

Mr. Miller addressed the board stating at the last telephonic meeting, he represented the company, but when it became apparent that there was a difference of opinions between Mr. Crum and the Howards, he contacted the Florida Bar and was advised that he was conflicted out, and could not represent them at this hearing. He stated he would continue to represent them should the board approve licensure.

Mr. Hardy Roberts was present and represented the Howards.

Ms. Clark asked if the investigative report and the settlement stipulation was included in the additional agenda information and that since the time of the mailing of the materials the hearing officer heard the case.

Mr. Knap answered in the affirmative and informed the board that the Department accepted the Settlement Stipulation and the case could proceed.

Ms. Clark stated to the board the reason the case was tabled from the March 16, 2005 meeting was due to an open investigation and by the time the agenda materials were prepared, the signed settlement stipulation was presented, but the case was still open because the Department's Hearing Officer had not had an opportunity to review the case.

Ms. Clark further stated that Mr. Knap represented that the Department did officially accept the settlement stipulation and the investigation is now resolved and it is appropriate for the board to consider the application on its merit.

Mr. Roberts addressed the board asking Mr. Crum to recuse himself from this matter because of the conflict between himself and the Howards.

Ms. Clark informed Mr. Crum that because he was not acting in a quasi-judicial manner at this meeting and would be ruling on an application, he is required to note his conflict on the record and determine whether he can act fair and impartial.

Ms. Clark advised that only if he was acting in a quasi-judicial matter that would impose discipline, would he be required to be recused.

Ms. Clark advised Mr. Crum and Mr. Moore, because of their financial interest in the matter, they should note on the record if they decide not to recuse themselves, but to decide if they could act fair and impartially and if they can, they are entitled to vote.

Mr. Moore stated he is an active family member of the Howards and a financial partner with the applicant and can be fair and impartial because the facts before the board are fair.

Mr. Crum stated he had a relationship with Tristaff not Howard Leasing. He further stated Tristaff was a client of his and he thinks he can be fair and impartial.

Ms. Clark asked if Tristaff was currently a client.

Mr. Crum stated he did not think so.

Ms. Clark advised that all members of the board could participate.

Ms. Clark reiterated that the investigation has been completed by the Department and the matter is resolved and advised that the Board's focus is not to retry the case or assess the evidence. She stated there was a charge of unlicensed activity and it has been resolved to the Department's satisfaction.

Mr. Charles P. Howard was present, sworn in, and addressed the board stating he did not act in the capacity of an employee leasing company. He was strictly in the business of temporary staffing. He further stated his intentions are to be in 100% compliance to the board.

There being no further discussion, the following motion was made.

MOTION: Mr. Rodriguez moved to approve the applications.

SECOND: Ms. Lanza seconded the motion and it passed with Mr. Crum abstaining.

**E. Total Leasing Co. Inc.  
Alfred W. Brown, CO 731**

Ms. Woodard presented the application stating the company is presently licensed as a single employee leasing company and has submitted an application to become a group leader. She further stated that all exhibits were submitted and complete and workers' compensation coverage had been confirmed by the Department of Financial Services (DFS) on April 5, 2005.

MOTION: Mr. Moore moved to approve the application.

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

**F. Total Employee Leasing, Inc.  
Alfred W. Brown, CO 731**

Ms. Woodard presented the application stating it is an application to become a group member of Total Leasing Co. Inc. which was just approved by the board to become a group leader. She further stated all exhibits were submitted and complete and workers' compensation coverage had been confirmed by DFS on April 11, 2005.

MOTION: Ms. Lanza moved to approve the application.

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

**G. James P. O'Drobinak, Controlling Person Applicant  
Advantech Solutions I, LLC – GL 66  
Advantech Solutions II, LLC – GM 236  
Advantech Solutions III, LLC – GM 256  
Advantech Solutions IV, LLC – GM 211  
Advantech Solutions VII, LLC – GM 212  
TalTech Resources, LLC – EL 286**

Ms. Woodard presented the application stating all exhibits were submitted and complete. She further stated there is an open unlicensed activity case against the applicant.

Ms. Clark asked what day was the application deemed complete.

Ms. Woodard informed the application was deemed complete on April 6, 2005.

Ms. Clark stated the reason she inquired was because when there is an open investigation, that is a basis for denial, it is never a good idea for board members to act on an application wherein they do not have all the details. However, the board is required to act on an application within 90 days of its being found to be complete.

She stated her concern was that we were approaching the 90 day deadline rather than waiting until all information was presented, the board would have to deny the application, but given that the application wasn't deemed complete until April 6, 2005 there is plenty of time to review the materials with the investigative information.

MOTION: Ms. Dockery moved to table discussion of the application until the June 2005 board meeting.

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

## **VI. REVIEW AND CONSIDERATION OF EMPLOYEE LEASING COMPANY NAME CHANGES**

### **A. Agristaff, Inc. – EL 277**

**TO: Allstates Employer Services II, 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.

### **B. Ameristaff II, Inc. – GM 40**

**TO: Crum Resources VI, Inc.**

Ms. Woodard presented the application stating it is complete.

Mr. Crum recused himself due to personal interest.

MOTION: Mr. Moore moved to approve the application.

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

### **C. MRG Leasing Group V, Inc. – GM 246**

**TO: Co-Advantage Resources V, Inc.**

Ms. Woodard presented the application stating it is complete.

MOTION: Mr. Moore moved to approve the application.

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

## **VII. DEFICIENT EMPLOYEE LEASING COMPANY APPLICATIONS FOR REVIEW**

### **A. Human Resource Services of America, Inc.**

Ms. Woodard presented the application stating the application has been deficient for over 90 days and at the request of the board, notification was mailed to the applicant to cure the deficiencies in the application within 30 days of the notice.

Ms. Woodard further stated the applicant did not respond to the notice and therefore did not meet the requirements of Section 468.524, Florida Statutes.

MOTION: Mr. Lanza moved to deny the application after consideration of the information provided for failure to comply with Section 468.524, FS.

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

### **B. ION Solutions of Arizona**

Ms. Woodard presented the application stating the application has been deficient for over 90 days and at the request of the board, notification was mailed to the applicant to cure the deficiencies in the application within 30 days of the notice.

Ms. Woodard further stated the applicant did not respond to the notice and therefore did not meet the requirements of Section 468.5275(1)(a), Florida Statutes.

MOTION: Mr. Crum moved to deny the application after consideration of the information provided for failure to comply with Section 468.5275(1)(a), Florida Statutes.

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

### **C. Onesource Employer Services, Inc.**

Ms. Woodard presented the application stating the application has been deficient for over 90 days and at the request of the board, notification was mailed to the applicant to cure the deficiencies in the application within 30 days of the notice.

Ms. Woodard further stated the applicant did not respond to the notice and therefore did not meet the requirements of Section 468.5275(1)(a), Florida Statutes.

MOTION: Ms. Lanza moved to deny the application after consideration of the information provided for failure to comply with Section 468.5275(1)(a), Florida Statutes.

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

### **D. Windsor Staff Management, Inc.**

Ms. Woodard informed the board that the application had been withdrawn at the request of the applicant.

### **E. Worksmart Systems, Inc.**

Ms. Woodard presented the application stating the application has been deficient for over 90 days and at the request of the board, notification was mailed to the applicant to cure the deficiencies in the application within 30 days of the notice.

Ms. Woodard further stated the applicant did not respond to the notice and therefore did not meet the requirements of Section 468.524, Florida Statutes.

MOTION: Mr. Crum moved to deny the application after consideration of the information provided for failure to comply with Section 468.524, FS.

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

## **VIII. REVIEW AND CONSIDERATION OF CHANGE OF OWNERSHIP APPLICATIONS**

### **A. Century II Staffing USA, Inc. – EL 198**

Mr. Marc Fortune was present for the application and represented by Mr. Mike Miller.

Mr. Miller addressed the board stating this is an application for a change of ownership, and the reason it is on the supplemental agenda is that it went from being owned as presented in the agenda materials to actual sale in April 2005. There was no letter of intent signed.

He further stated that due to the company being a publicly traded company, it could not be disclosed that they were in negotiations, but they never went to a letter of intent.

Mr. Miller stated it was Mr. Fortune's belief they had a 30-day period after-the-fact in order to notify the state of Florida. He now knows that in the state of Florida it is not after-the-fact, that you have to prove it ahead of time.

Ms. Clark asked if there was on open investigation about this failure to notify.

Ms. Woodard answered "no".

Ms. Clark stated the board is able to consider applications were there is a violation present, but no investigation has been opened yet by licensing with conditions.

Ms. Clark advised that the applicant did not comply with Chapter 468.524(5), Florida Statutes through a violation of Section 61G7-7.001(2)(o), Florida Administrative Code.

After further discussion, the following motion was made.

MOTION: Mr. Crum moved to approve the change of ownership with the imposition of an administrative fine of \$1000.

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

## **IX. REPORTS**

### **A. Office of the Attorney General – Mary Ellen Clark**

Ms. Clark directed the board's attention to the rules report contained in the agenda materials.

She stated Rule 61G7-5.002(1), FAC is the reduction in the annual assessment on Gross Florida Payroll that was voted on in January 2005. She informed that it became effective March 27, 2005.

She further stated at the last meeting, she was also instructed that changes were needed to be made to the same rule in regarding the requirement to submit the UCT-6 form. She provided a draft of what she thinks the board wants the language to be.

She stated if the draft is what the board desires, they would need to vote to have her develop the rule and approve the language at the same time.

**MOTION:** Ms. Dockery made a motion to notice the rule for development and approve the language as drafted in the agenda materials.

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

Ms. Clark stated at the request of the probable cause panel, Rule 61G7-7.001(2)(z), FAC has been noticed for rule development and at this time the board could entertain discussion of what the guidelines should be or plan time in the meeting of what it should be or appoint a committee and ask them to meet in-between meetings.

Ms. Lanza stated the reason the panel asked for the rule development was so that there would be a range of guidelines and the panel would be more consistent in their rulings.

After further discussion, the board agreed to take no action on the matter.

### **B. Executive Director – John T. Knap**

Mr. Knap mentioned the Operating and Unlicensed Activity Financial Reports contained in the agenda materials.

He also mentioned the inclusion of the Monthly Enforcement Report in the materials. He informed that the report gives a tally of the complaints in the Department and their status.

Mr. Knap informed that he is able to gather information for a population report or any other report the board would desire to review in making more informative decisions pertaining to the board.

### **C. Office of the General Counsel – Eric Hurst**

Mr. Hurst reported that the prosecuting attorney's report was included in the agenda materials. He also informed the board that he would not be able to attend the June 2005

board meeting due to a previously scheduled appointment, but Mr. Charles Tunnicliff, his supervisor, would attend in his stead.

**D. Chairperson – Celeste Dockery**

No Report

**X. NEW BUSINESS**

Mr. Moore addressed the board stating that when a staffing company applies for a license, it would be nice to gather information as to the methods the companies would use with their clients to get a more in depth look into the company's background.

Ms. Clark stated she had spoken with Mr. Moore regarding this issue and the genesis of the investigation of the Howards came from the Department of Insurance and the things that were critical to that investigation were the contracts that the staffing company had been using. She further stated from her understanding they actually used the words employee leasing in certain portions of their contracts and brochures, but they also stated they could provide workers' compensation.

Ms. Clark stated there is a shift in the industry and many staffing companies are evolving in their practice and perhaps rather than have one company targeted because the Department of Insurance sent something, it may be appropriate in the application to have more information disclosure, such as the type of contract that the staffing company uses.

Mr. Crum stated there are no contracts in temporary services because they are the companies' employees.

Ms. Clark stated Mr. Moore is asking the board to consider whether or not to ask for these contracts, but what she is hearing is that there is not an agreement as to whether these contracts are generally in use.

Mr. Rodriguez and Ms. Lanza stated they were not interested in singling out and beginning an industry war.

Mr. Moore stated his comments were for the board to be more aware of what is happening in the industry.

**XI. OLD BUSINESS**

None

**XII. WORKERS' COMPENSATION DISCUSSION**

Ms. Tasha Carter of the Department of Financial Services, Division of Workers' Compensation, addressed the board asking what she should do with companies that do not have workers' compensation coverage, being that one of the Statutes governing

employee leasing states the companies must provide workers' compensation coverage in order to be licensed.

She stated she knows of a number of companies that do not have coverage for a variety of reasons. Some companies state they are not operating, but maintain a current license. Some companies state they only have three or fewer employees and some state they maintain the license as a shell company.

Ms. Clark stated those companies should be forwarded to DBPR Complaints Section.

Mr. Miller stated he had spoken with the legal department within the Workers' Compensation Division and was informed that employee leasing companies are treated as any other employer and if there are no more than three employees, the companies are not required to have workers' compensation coverage.

Mr. Miller stated he asked the board once before when Mr. John Rimes was the attorney if companies have to maintain workers' compensation to be in compliance with DBPR and the answer was no. He asked if the answer now from the board was "yes" that all employee leasing companies are required to maintain workers' compensation coverage.

After further discussion, the board stated as per Florida Statutes, all employee leasing companies are required to maintain workers' compensation coverage and if the companies are without coverage, a complaint should be opened against the company.

Ms. Carter stated the other issue she has relates to company name changes. She stated a recommendation to the board is whenever there is a name change to also ask for proof of workers' compensation coverage.

The board also agreed to require reaffirmation of workers' compensation coverage for any status changes to employee leasing companies.

Ms. Dockery asked staff to agenda a workers' compensation discussion for the June 2005 meeting.

### **XIII. ADJOURNMENT**

MOTION: Mr. Moore moved to adjourn.

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

The meeting adjourned at 12:20 p.m.