

**BOARD OF EMPLOYEE LEASING COMPANIES
GENERAL BUSINESS MEETING MINUTES
HYATT REGENCY ORLANDO INTERNATIONAL AIRPORT
9300 AIRPORT BLVD.
ORLANDO, FLORIDA 32827**

**June 15, 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

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 & Hammett, P.A. and FAPEO
Timothy Tack, Kunkel, Miller & Hammett, P.A.
Preston Thomas, CEO, Inc.
Lee Trotter, Allstate
John W. Tenney, PEO Pro's
Michael Moran, Blue Water
Laurie Andrea, AEM
Dan Opferman, O2 HR
Marian Sbar, Advantech
Jay Pimentel, TriNet
Chris Layne, FAPEO
Douglas Hasty, FAPEO
Randal Gore, On-Site Services II
Vance Yarter, Equity Concepts
Wayne Detmar, Equity Concepts
Joel Streinz, FCCI
Brian Coon, FCCI
Abram Finkelstein, FAPEO

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

III. REVIEW AND APPROVAL OF THE APRIL 20, 2005 GENERAL BUSINESS MEETING MINUTES

Mr. Mike Miller asked the board if the statement as written in paragraph five on page twelve of the agenda accurately depicts what was said at the meeting in reference to workers' compensation. He was wondering if the board was making this a formal policy at this point in time.

Ms. Dockery asked Mr. Miller is he was more comfortable with the statement "a board member stated as opposed to the board stated."

Mr. Miller stated it would be more accurate if the record would reflect "a board member stated."

Mr. Rodriguez stated it is not a question of whether a board member stated or the board stated, it is a strict interpretation of the statute as to whether the statement could be made.

Ms. Clark stated for the purposes of moving this conversation along, the board should determine whether or not they feel that the minutes, as written, accurately reflect what happened. She further stated that in terms of whether or not the board feels like today this is an accurate statement is a different matter. She stated the board needs to take a vote on whether they think this is what transpired at the April 2005 meeting and the minutes need to state what happened.

The members of the board agreed that the minutes accurately reflect what happened at the April 2005 meeting.

MOTION: Ms. Lanza moved to approve the minutes.

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

IV. REVIEW AND APPROVAL OF THE MAY 25, 2005, TELEPHONE CONFERENCE CALL MEETING MINUTES

MOTION: Mr. Moore moved to approve the minutes.

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

V. DISCIPLINARY PROCEEDINGS – Office of the General Counsel

A. HEARING IN WHICH THERE ARE NO DISPUTED FACTS

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

Mr. Eric Hurst presented the cases 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. Yarter was present and represented by Mr. Mike Miller.

MOTION: Ms. Dockery moved to adopt the allegations of fact and conclusions of law in the administrative complaint as those of the board.

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

After a lengthy discussion, the following motion was made.

MOTION: Mr. Rodriguez moved to allow voluntary relinquishment of the employee leasing license, number EL 226, and the controlling person license, number CO 601, within ten (10) days after entry of the final order, and impose

an administrative fine in the amount of \$3000 and costs of \$141.10.

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

B.	MOTION FOR WAIVER OF RIGHTS AND FINAL ORDER	<u>CASE #</u>
1.	STEBO Leasing, Inc.	2004-019806
2.	David E. Michaud	2004-019819

Mr. Eric Hurst presented the cases explaining they stem from violations involving failure to submit quarterly reports for the quarters ended June 30, and September 30, 2003, failure to submit a copy of its fiscal year end financial statements for 2003, failure to submit quarterly reports for the quarters ended June 30, and September 20, 2003 verifying that it is meeting the net working capital and net worth requirements, and failing to notify the Board office of its name change within 30 days of effecting the name change.

MOTION: Ms. Dockery moved to adopt the allegations of fact and conclusions of law in the administrative complaint as those of the board.

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

MOTION: Mr. Rodriguez moved that the Respondent's failure to respond to the Administrative Complaint has waived its right to request a hearing in which there is a disputed issue of material fact.

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

MOTION: Ms. Dockery moved to revoke the employee leasing company's license and controlling person's license, and impose an administrative fine of \$5000 and investigative costs.

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

3.	Robert Tuckman	2004-010130
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Mr. Eric Hurst presented the case explaining that it stems from violations involving failure to submit all quarterly reports for the year 2003, failure to submit the annual assessment

fee based on 2003 Gross Florida Payroll, and failure to submit the Annual Financial Statements for 2002 and 2003.

MOTION: Ms. Dockery moved to adopt the allegations of fact and conclusions of law in the administrative complaint as those of the board.

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

MOTION: Mr. Rodriguez moved that the Respondent's failure to respond to the Administrative Complaint has waived its right to request a hearing in which there is a disputed issue of material fact.

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

MOTION: Mr. Moore moved to revoke the controlling person license of Mr. Tuckman, impose an administrative fine of \$5000 and costs of \$59.24.

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

C. SETTLEMENT STIPULATIONS

CASE#

1. Concept Personnel Logistics

2004-047271

2. Jason Lucarelli

2004-047279

3. Samuel L. Lucarelli

2004-047283

Mr. Eric Hurst presented the cases explaining they stem from violations involving failure to submit the 2004 Annual Assessment. Mr. Hurst stated that the settlement stipulation provides for an administrative fine of \$1500, costs of \$115.83, and joint and several liability for payment of the fine and costs.

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

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

4. United Temps, et al

2004-047713

5. Michael P. Graney

2004-047721

6. Richard A. Simon

2004-047717

7. Carol Stein

2004-047722

Mr. Eric Hurst presented the cases explaining they stem from violations involving failure to submit the 2004 Annual Assessment. Mr. Hurst stated that the settlement stipulation provides for an administrative fine of \$1500, costs of \$154.04, and joint and several liability for payment of the fine and costs.

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

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

8. All States Employer Services, Inc.

2004-052371

9. Diane L. Gregory

2004-052387

10. Robert W. Kimball

2004-052392

Mr. Eric Hurst presented the cases explaining they stem from violations of listing Mr. Richard Gregory as CEO when he was not a licensed controlling person. Mr. Hurst stated that the settlement stipulation provides for an administrative fine of \$500 each, costs of \$59.24, \$44.43, and \$59.24 respectively, and reprimand for each license.

MOTION: Mr. Rodriguez moved to adopt the settlement stipulation as the final order of the board.

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

- 11. Tandem Professional Employer Services, Inc. 2004-053505**
12. Bruce Leon 2004-060034

Mr. Eric Hurst presented the cases explaining they stem from violations involving failure to timely submit its March 2004 and June 2004 quarterly reports, submitting an incorrect quarterly report for the quarter ending March 2004 and June 2004, and submitting an incorrect quarterly report for quarter ended September 2004. Mr. Hurst stated that the settlement stipulation provides for an administrative fine of \$3500, costs of \$103.67, reprimand for each license, and joint and several liability for payment of the fine and costs.

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

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

- 13. Taltech Resources, Inc. 2005-000229**
14. James K. Murray, III 2005-000261

Mr. Eric Hurst presented the cases explaining they stem from violations of listing Mr. James O'Drobinak as President when he was not a licensed controlling person. Mr. Hurst stated that the settlement stipulation provides for an administrative fine of \$500, costs of \$44.43, reprimand of both licenses, and 90 days probation for both licenses.

Ms. Marian Sbar was present and represented the licensees.

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

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

VI. REVIEW AND CONSIDERATION OF EMPLOYEE LEASING COMPANY AND CONTROLLING PERSON APPLICATIONS

A. Blue Water Employee Leasing, LLC Michael a. Moran, Controlling Person Applicant

Ms. Woodard presented the company 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.

Ms. Woodard presented the controlling person application 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. Moran was present, sworn in, and stated should anything derogatory be revealed on the reports that he would subject himself to the jurisdiction of the board.

MOTION: Mr. Moore moved to approve the applications with the condition that should anything derogatory be revealed on the reports that Mr. Moran would appear before the board.

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

**B. Employee Leasing Solutions Holding Company, Inc.
William J. Mullis, CO 563**

Ms. Woodard presented the application stating that all exhibits were submitted and complete. She further stated that workers' compensation coverage was confirmed by the Department of Financial Services on April 22, 2005.

MOTION: Mr. Dockery moved to approve the application.

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

**C. CEO, Inc.
Preston M. Thomas, Controlling Person Applicant**

Ms. Woodard presented the company 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.

Ms. Woodard presented the controlling person application 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 was present and represented the applicant stating should anything derogatory be revealed on the reports that Mr. Thomas would subject himself to the jurisdiction of the board.

MOTION: Ms. Dockery moved to approve the applications with the condition that should anything derogatory be revealed on the reports that Mr. Thomas would appear before the board.

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

**D. O2 HR, Inc.
Jeff Williams, CO 622**

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 agent advising of workers' compensation coverage.

MOTION: Ms. Lanza moved to approve the application.

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

**E. On-Site Services II, Inc.
Randall E. Gore, Controlling Person Applicant**

Ms. Woodard presented the company application stating that all exhibits were submitted and complete. She further stated, in reference to workers' compensation, the applicant submitted affidavits in accordance with Rule 61G7-10.0014, Florida Administrative Code.

Ms. Woodard presented the controlling person application 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 was present and represented the applicant stating should anything derogatory be revealed on the reports that Mr. Gore would subject himself to the jurisdiction of the board.

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

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

**F. Patrick J. Del Medico, Controlling Person Applicant
Progressive Employer Services III, LLC – GL 94**

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

Mr. Mike Miller was present and represented the applicant stating should anything derogatory be revealed on the reports that Mr. Del Medico would subject himself to the jurisdiction of the board.

MOTION: Mr. Moore moved to approve the application with the condition that should any derogatory information be revealed on the reports that Mr. Del Medico would appear before the board.

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

**G. Douglas S. Hasty, Controlling Person Applicant
Personnel Advantage East, Inc. – EL 317**

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

She further stated the credit report revealed four civil cases.

Mr. Hasty was present and represented by Mr. Michael Miller.

Mr. Miller stated all of the cases were settled.

Ms. Lanza asked about the temporary restraining order.

Mr. Hasty addressed the board stating the case is in arbitration. He further stated the restraining order was a result of the termination of an employee and has been lifted.

Mr. Hasty stated should anything derogatory be revealed on the reports that he would subject himself to the jurisdiction of the board.

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

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

**H. Chris Layne, Controlling Person Applicant
Personnel Advantage East, Inc. – EL 317**

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

She further stated the credit report revealed six civil cases.

Mr. Layne was present and represented by Mr. Michael Miller.

Mr. Layne stated should anything derogatory be revealed on the reports that he would subject himself to the jurisdiction of the board.

MOTION: Mr. Moore moved to approve the application with the condition that should any derogatory information be revealed on the reports that Mr. Layne would appear before the board.

SECOND: Mr. Moore seconded the motion and it passed with Ms. Lanza opposing.

I. James P. O'Drobinak, Controlling Person Applicant

Ms. Woodard presented the application stating it was presented to the board at the April 20, 2005 meeting. She stated at that meeting the board tabled discussion of the application until information pertaining to the unlicensed activity case could be presented to the board for review.

Mr. Eric Hurst advised there is a settlement stipulation awaiting to be approved by the Department.

The board agreed to table discussion of the application until the unlicensed activity matter has been resolved.

VII. REVIEW AND CONSIDERATION OF CHANGE OF OWNERSHIP APPLICATIONS

A. AEM, Inc. – EL 270

Ms. Woodard presented the application stating Ms. Laurie Andrea and Mirabiles Ventures, Inc. would be the new owners for the company. She further stated that Mr. Fred Sandlin, the current controlling person, wishes to relinquish his license upon approval of the change of ownership.

MOTION: Ms. Dockery moved to approve the application and controlling person relinquishment.

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

B. FLSUB-34, Inc. – GL103

Ms. Woodard presented the application stating Trumpet Entities and Regions Financial Corporation would be the new owners and Mr. Carl Guidice Jr., CO 727, and Mr. Gilberto Aleman, CO 708, would be the controlling persons.

MOTION: Mr. Moore moved to approve the application.

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

C. Jobs on the Beach, Inc. – EL 315

Jack Bevan, Controlling Person Applicant

Name Change To: ICore of Florida, Inc.

Ms. Woodard presented the change of ownership application stating Mr. David G. Bell, CO 745, and Mr. Jack Bevan, controlling person applicant, would be the new owners and controlling persons for the company.

Ms. Woodard presented the controlling person application of Mr. Bevan stating all exhibits were submitted and complete.

Ms. Woodard advised the only outstanding items are the criminal history reports from the FDLE and the FBI. She further advised Mr. Bevan's credit report revealed seven (7) accounts in collection and two (2) civil suits.

Mr. Bevan was present and represented by Mr. Mike Miller.

After a lengthy discussion, the board made the following motions.

MOTION: Ms. Lanza moved to approve the name change.

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

MOTION: Ms. Dockery moved to postpone discussion of the change of ownership and controlling person applications until the August 2005 meeting at which time Mr. Bevan would provide an in-depth historical sketch, an explanation of his credit history and dispositions of final judgments in reference to his civil cases.

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

D. Strategic Outsourcing, Inc. – G 58

Ms. Woodard presented the application stating Trumpet Entities and Regions Financial Corporation would be the new owners and Mr. Carl Guidice Jr., CO 727, and Mr. Gilberto Aleman, CO 708, would be the controlling persons.

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

E. TriNet Acquisition Corporation – EL 320

Ms. Woodard presented the application stating Martin Babinec, Douglas Devlin, Gregory Hammond, and GA TriNet, LLC would be the new owners of the company. She further stated Mr. Babinec, CO 741. Mr. Devlin, CO 743, and Mr. Hammond, CO 742, would be the controlling persons.

Mr. Miller represented the applicant asking if it would be possible to have the residence addresses of the applicants redacted from public view when requested in a public records request.

Ms. Clark advised the board does not have the ability to grant that request.

After further discussion, the following motion was made.

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

VIII. REVIEW AND CONSIDERATION OF EMPLOYEE LEASING COMPANY NAME CHANGES

A. Professional Benefit Solutions, Inc. – EL 213
TO: Presidion Solutions VII, Inc.

Ms. Woodard presented the application stating it is complete and there are no open or pending complaints against the licensee.

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

IX. DEFICIENT EMPLOYEE LEASING COMPANY APPLICATIONS FOR REVIEW

A. American Staffing, 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.

B. Hospitality Employee Leasing Program, 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: Ms. Lanza 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.

C. Paradise Staffing Solutions, 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: Ms. Lanza 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.

D. Small Business Exchange, 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: Ms. Lanza 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.

E. Staffnet, 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: Ms. Lanza 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.

X. REPORTS

A. Office of the Attorney General – Mary Ellen Clark

1. June Employee Leasing rules Report

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

Ms. Clark informed that Rule 61G7-5.002(2), Florida Administrative Code (F.A.C.) was in route to being adopted. She further advised that Rule 61G7-10.002, FAC had been noticed for rule development and a draft of the proposed language was included in the agenda materials.

MOTION: Mr. Rodriguez made a motion to approve the draft language for Rule 61G7-10.002, F.A.C.

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

B. Executive Director – John T. Knap

Mr. Knap reviewed with the board the Operating and Unlicensed Activity Financial reports contained in the agenda materials.

Mr. Knap also mentioned the inclusion of the Monthly Enforcement Report.

C. Office of the General Counsel – Eric Hurst

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

D. Chairperson – Celeste Dockery

Ms. Dockery asked board members to review the proposed meeting schedule for the remainder of the calendar year and report at the July 2005 telephone conference call meeting any conflicts or changes to be made.

Ms. Dockery stated one change she would like to make is to the December 21, 2005 meeting. She stated that is the week of Christmas and would not prefer to travel during that time.

XI. NEW BUSINESS

None

XII. OLD BUSINESS

None

XIII. WORKERS' COMPENSATION DISCUSSION

Mike Miller stated there were two issues of major significance that has been raised. The first issue is the ability of PEOs to allow a client to maintain their own workers compensation policy. The second issue is what should be the law and what the law is regarding whether or not a PEO that has fewer than four employees needs to maintain workers' compensation coverage.

Mr. Miller stated client based policies are significant issues for the industry and that FAPEO and NAPEO concur in that client based policies should be allowed.

Mr. Abram Finkelstein, Vice-President of FAPEO, addressed the board regarding client based policies stating that FAPEO and NAPEO positions are that the PEO industry would be best served, if in the voluntary market, that the insurance carrier were given the option of how they would like to insure the PEO risk. That option would include the master policy, a client based policy, or multiple coordinated policy. So from the prospective of the carrier, the more flexibility is the best way to go.

Mr. Finkelstein stated that FAPEO and NAPEO, specific to Florida, and the reading of Florida Statutes are also on the same page. Chapter 468 of the Florida Statutes specifically states that the PEO shall be responsible for providing workers' compensation coverage pursuant to Chapter 440 F.S. In Chapter 440.11, F.S. it states the employer, in this case the client company, shall be liable for and shall secure the payment of compensation to all such borrowed employees as required in s. [440.10](#), except when such payment has been secured by the help supply services company. He further stated that PEOs or employee leasing companies are defined in health supply services companies, and the Statute is saying that it is an obligation to have a client based policy unless the client is covered under the PEO's policy.

Mr. Finkelstein stated if Chapter 627.192(3), F.S. is examined it says that a lessor that obtains coverage in the voluntary workers' compensation market may elect, with the voluntary market insurer's knowledge and consent, to secure the coverage on leased employees through a workers' compensation policy issued to the lessor. The insurer of the lessor may, in its discretion, take all reasonable steps to ascertain exposure under the policy and collect the appropriate premium. He also stated the industry's position is that the Statute, with respect to client-based policies, is pretty clear in Florida. In Florida PEO clients can be insured under Statute - and this has nothing to do with the rule that was passed by the Board two years ago would certainly clarify and put some protections in place as to how to guarantee that coverage is

in place on a quarterly and annual basis, but the Statute is pretty clear that there is an option to have client based policies. He stated the public of Florida is better served by having client based policies in addition to the option of master policies.

Mr. Finkelstein also addressed the issue of PEOs with fewer than four employees are required to have workers' compensation coverage and it has come to his attention that complaints have been filed on companies that might fall within that category.

While he is completely on the same page as the board, in fact it is his desire to see the public protected and PEOs should have workers' compensation coverage. He stated he believes the Statute does not require PEOs with fewer than four employees to have workers' compensation coverage unless they are in the construction industry. He stated he relies on that provision in Chapter 468, F.S. that specifically states that workers' compensation coverage for a PEO should be held consistent with the requirements of Chapter 440, F.S. Chapter 440, F.S. does not require workers' compensation coverage for companies that are non-construction if there are fewer than four employees.

Mike Miller added pertaining to Rule 61G7-10.0014, F.A.C., that was passed eighteen months ago, allows client based policies. To his knowledge, that was never objected by anyone and certainly JAPC that reviews the rules has approved that particular rule. So there certainly is the belief that a client based policy rule was in conformity with the Statutes.

Mr. Rodriguez stated he has personal concerns with individual policies for a variety of reasons. He asked what does a PEO do if it does not provide workers' compensation coverage and doesn't provide benefits, then why does it need to be licensed as a PEO why not just process payroll or SUTA dumping. He stated that is his personal opinion and is not imposing it on the industry or on the board.

The reason he raised the concern is that we have rules around verifying coverage for workers' compensation and the specific example was a theoretical PEO with 500 individual policies all which expire at various times so his question to staff was how are we verifying coverage. He was concerned with the passage of the rule did the board consider how it would enforce all of the other rules that the board has which include verifying coverage of workers' compensation. He does not feel comfortable today that the board is in fact doing that. He stated in order words the board is saying it is ok to have individual policies but no one has told him what is being done to make sure that coverage is being verified.

He stated there was a discussion around the fact that simply having a certificate of insurance says that we are to be notified of cancellations is not enough because a lot of insurance companies don't send out the notices the way they should. He stated he has yet to hear a solution to that problem, and he does not feel comfortable as a board member renewing or approving licenses for companies knowing that we are not doing one of the most important things that the Statute calls for, which is verifying that there is coverage in place.

Ms. Clark asked staff to verify to the board members how they are verifying what is already required which is that all applicants for licensure and renewal are required to file with the board evidence of workers' compensation coverage for all leased employees in this State.

Ms. Woodard advised that for initial applicants, the submitted certificate of insurance of workers' compensation coverage is verified with the Department of Financial Services, Bureau of Workers' Compensation, specifically Ms. Tasha Carter, Government Analyst.

Ms. Clark asked if Ms. Carter checks to see if the policy covers all leased employees. How would she know if only ten employees are covered under the client's policy?

Mr. Miller stated for initial licensure there are no clients.

Ms. Woodard stated on an annual basis the companies are required to complete the workers' compensation liability statement with their annual financial statements which are sent to Mr. Richard Law for evaluation and compliance with the Statutes.

Ms. Clark states that would verify that particular policy is a good policy, but where is the connection between "and this policy covers all of my leased employees."

Mr. Miller stated the board enacted Rule 61G7-10.0014, F.A.C. that talks about the specifics to be done on an annual basis.

Ms. Lanza stated the problem she has is that the workers' compensation liability form hasn't been revised to include these things such as what percentage of your clients have their own policies, and are there certificates of insurance on all the policies. She stated the form really needs to be revised to reflect that because there really is no way for a PEO to report clients with their own policies.

Mr. Rodriguez stated there should be a verification mechanism in place. He stated he is not comfortable with someone signing a document stating they have workers' compensation coverage for clients that are covered with their own individual policy. The whole purpose of getting the certificate of insurance on the PEO is because we do not accept that statement. It has to be verified with the Department of Insurance. So we should also verify coverage on individual policies as long as they are leased employees.

Ms. Dockery stated she thinks the problem is that it would burden staff and in order not to burden staff, the board wrote in, knowing this could burden staff, that all controlling persons, the CEO, the CFO, and the Chairman of the board of the employee leasing company must attest to the compensation being in place for each one of the client companies and making sure that they are active policies. And if not, it falls back on those people that we have control over if for any reason the policies lapse or are not kept current, those people are all responsible for those policies.

Ms. Clark stated the rule has only been in place about a year and a half and it may be the appropriate time for staff to prepare a list of all the companies that have submitted this statement, then from that list the board could decide on a random audit.

Ms. Clark advised staff to provide numbers only, not the names of the companies, to the board so that they could decide on the number they wish to have audited. She stated this rule requires that they, the controlling persons, have in their possession, a copy of the client's policy, so therefore an audit can be done to verify that the companies using this method have reported to the board that this is what they are doing, and are in compliance.

Mr. Jerry Lancaster, Chairman of Providence Property and Casualty, stated he has a problem with what the board is discussing. He asked what if one of the client companies does not pay their premium and get ten days notice and then terminated from a client, how is the controlling person going to know that information. He also asked what if there is an accident on the day of termination, who pays the claim?

Ms. Dockery stated she was under the assumption that the controlling person would be of the mindset to make sure that the premium is paid by collecting the premium from the client through the mechanisms of the leasing program and then paying the insurance carrier.

Mr. Miller stated he asked the Department of Insurance, over a year ago, the question of whether or not they would want the PEO to be the entity that actually makes the payment to the workers' compensation carrier. He stated there has been no formed opinion and it is possible by now, being that Andrew Sabolic has attended a few meetings that they would be willing to say that is something they would prefer.

Mr. Finkelstein wanted to clarify that it is not necessarily the PEO industry's position that they favor that reasoning. It is just the way he reads the law. There is a client based policy unless there is a master policy. He stated if the client based policy fails he thinks that the liability would fall on the master policy. He stated this is his personal reading of the Statutes and cannot say it is advocated by the association.

Ms. Dockery stated she wanted a status report from staff on the number of companies utilizing Rule 61G7-10.0014, F.A.C. and have Mr. Law perform an audit.

Mr. Rodriguez also suggested finding a mechanism of keeping track of all these individual policies.

Ms. Dockery stated she also wanted to suggest refining the rule or making changes to the rule after review of the audit results.

Mr. Miller readdressed the board with regards to PEOs with fewer than four employees. He stated the Statute states that workers' compensation shall be maintained in accordance with Chapter 440, F.S. and Chapter 440, F.S. states an employer need not have workers' compensation if they have less than four employees absent being in the construction industry. He asked if a small company or a shell company has to have compensation coverage, given the wording of the Statutes.

Ms. Lanza stated she felt it was just a way to get around having to have compensation coverage in place when applying for initial licensure. She stated eventually a PEO is going to have more than four internal employees and asked why wouldn't a PEO want to insure their own internal employees.

Mr. Miller stated FAPEO would agree that it makes sense. However, what does the Statute say? The board cannot go beyond rule-making and cannot legislate. It is up to the Florida Legislature.

Ms. Dockery stated, in her opinion, Chapter 468.529, F.S. talks about Chapter 440, F.S. and Chapter 443, F.S., but it also talks about the leasing company is responsible for providing workers' compensation coverage. So when she sees the word providing she assumes it is to the leased employees. She stated parenthesis two states "an initial or renewal license may not be issued to any employee leasing company unless the company first files with the board evidence of compensation coverage for all leased employees in the state.

Mr. Miller stated what if they have no leased employees... it is a shell company. He stated the internal employees are not leased employees.

Mr. Rodriguez stated if someone wants to apply for a license without workers' compensation coverage, let them come before the board. The board would seek counsel and counsel would

advise whether the law is being interpreted as it is being told today and if it is, a license will be granted and then they will change the rule.

Ms. Clark stated she agreed with Mr. Rodriguez in if the board feels comfortable with their understanding of the law to let an applicant come before them.

Mr. Miller stated complaints have been issued against companies that fall within this category.

Mr. Rodriguez stated the board would make a decision at that time if there are PEO operating without workers' compensation coverage, based on how long they have been operating without workers' compensation, why they are operating without coverage, etc.

XIII. ADJOURNMENT

MOTION: Ms. Lanza moved to adjourn.

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

The meeting adjourned at 1:50 p.m.