

**BOARD OF EMPLOYEE LEASING COMPANIES
TELEPHONE CONFERENCE CALL MEETING MINUTES
WEDNESDAY, FEBRUARY 16, 2011
10:00 a.m. EST
MEET-ME-NUMBER: (888) 808-6959**

I. CALL TO ORDER

The meeting was called to order at approximately 10:02 a.m. EST by Mr. Abram Finkelstein, Board Chair.

II. ROLL CALL

MEMBERS PRESENT

Abram Finkelstein, Chair
John Jones, Vice Chair
Celeste Dockery
Keith Reeves

MEMBERS ABSENT

STAFF PRESENT

Rick Morrison, Executive Director, DBPR
Krista Woodard, Government Analyst II, DBPR
Rachel Clark, Board Counsel, Office of the Attorney General
Eric Hurst, Prosecuting Attorney, DBPR

OTHERS PRESENT

Michael Miller, Kunkel, Miller & Hament, P.A.
Timothy Tack, Kunkel, Miller & Hament, P.A.
Mark Ruggieri
Celeste Perrino, Esquire
Barbara Pailley
Tony Boyd
Steven Carpenter, Esquire
Toby Fanning
Jim Bell
Glen Distefano
Bobby Sarver

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

III. REVIEW AND APPROVAL OF THE JANUARY 19, 2011 TELEPHONE CONFERENCE CALL MEETING MINUTES

MOTION: Mr. Jones moved to approve the minutes.

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

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

**A. Barbara Pailley, Controlling Person Applicant
AS South, LLC – EL 403**

Mr. Finkelstein presented the controlling person application of Ms. Pailley.

Ms. Pailley was present and represented by Ms. Celeste Perrino.

MOTION: Ms. Dockery moved to approve the application.

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

**B. Mark Ruggieri, Controlling Person Applicant
Certistaff, Inc. – GL 50
Certistaff II, Inc. – GM 104
Certistaff III, Inc. – GM 188
Certistaff IV, Inc. – GM 300**

Mr. Finkelstein presented the controlling person application of Mr. Ruggieri

MOTION: Ms. Dockery moved to approve the application.

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

V. REVIEW AND CONSIDERATION OF CHANGE OF OWNERSHIP APPLICATIONS

A. Business Personnel Solutions, Inc. – EL 343

Mr. Finkelstein and Mr. Tack presented the change of ownership application.

MOTION: Ms. Dockery moved to approve the change of ownership application.

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

- B. First Financial Employee Leasing, Inc. – GL 145
First Financial Employee Leasing II, Inc. – GM 358
First Financial Employee Leasing III, Inc. – GM 360**
- C. First Financial Employee Leasing IV, Inc. – EL 372 (Asset Purchase)**
- D. First Financial Employee Leasing IV, Inc. – EL 372 (Stock Purchase)**

Mr. Finkelstein and Mr. Tack presented the change of ownership applications.

MOTION: Mr. Finkelstein moved to approve the change of ownership applications.

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

**E. Omega Business Solutions, Inc. – GL 73
Omega Business Solutions II, Inc. – GM 156**

Mr. Finkelstein presented the change of ownership applications.

Mr. Reeves asked questions about the financials submitted with the applications. He asked that corrected financials be submitted for inclusion into the application file.

Mr. Miller stated he would have corrected financials submitted to the board office.

After further discussion, the following motion was made:

MOTION: Mr. Finkelstein moved to approve the change of ownership applications.
SECOND: Mr. Jones seconded the motion and it passed unanimously.

- F. **SCI Global HR, Inc. – EL 394**
- G. **SCI HR Outsourcing, inc. – EL 395**

Mr. Finkelstein presented the change of ownership applications.

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

VI. REPORTS

A. Office of the Attorney General – Rachel Clark

Ms. Rachel Clark advised that Ms. Mary Ellen Clark had provided an updated Rules Report.

She stated that Ms. Mary Ellen Clark had submitted new language for Rule 61G7-5.005, F.A.C. that needed to be voted on and the board must answer the questions that must be addressed based on the new legislation.

She further stated that the same questions must be answered for Rule 61G7-10.0012, F.A.C.

- **Rule 61G7-5.005 Deficiency in Tangible Accounting Net Worth; Guaranty Form Acceptable to Board; Sufficient Evidence of Guarantor's Adequate Resources.**

(1) When an applicant chooses to have a guaranty to offset any deficiency in tangible accounting net worth regarding an initial application, accounting net worth or working capital regarding a renewal application, such guaranty shall be made on Form DBPR EL 4505, entitled "Board Approved Guaranty Form," effective 3-18-04, which is incorporated herein by reference and available from the Board at 1940 North Monroe Street, Tallahassee, Florida 32399-0750 and from its Website located at <http://www.myflorida.com/dbpr/pro/emplo/forms.html>. Such guaranty shall be irrevocable until such time that the deficiency causing the guaranty has been corrected, as demonstrated by the applicant's annual financial statement, meeting the requirements of either Rule 61G7-5.0031, F.A.C. or Rule 61G7-5.0032, F.A.C., or until a new guaranty has been submitted and found acceptable by the Board to replace the previously submitted guaranty.

(2) through (3) No change.

Rulemaking Specific Authority 468.522, 468.525(3)(d) FS. Law Implemented 468.525(3) FS. History—New 9-6-93, Amended 5-29-94, 5-26-96, 9-5-04, 6-8-08,_____.

MOTION: Ms. Dockery moved to approve the amended language as presented.
SECOND: Mr. Jones seconded the motion and it passed unanimously.

After approval of the language, Ms. Rachel Clark asked the following questions:

1. Will the proposed rule amendments have an adverse impact on small business?

MOTION: Mr. Finkelstein moved that the proposed amendments to Rule 61G7-5.005, F.A.C. would not have an adverse impact on small business.
SECOND: Mr. Reeves seconded the motion and it passed unanimously.

2. Will the proposed rule amendments be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after implementation?

MOTION: Ms. Dockery moved that the proposed language would not be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after implementation.
SECOND: Mr. Reeves seconded the motion and it passed unanimously.

• **Rule 61G7-10.0012 Worker's Compensation Liability Statement**

Each audited or reviewed financial statement submitted to the Board pursuant to Section 468.525(3)(e), F.S., and Rules 61G7-5.0031 and 61G7-5.0032, F.A.C., shall include a statement, signed by the chief executive officer (CEO) and chief financial officer (CFO) of the employee leasing company as well as the independent certified public accountant (CPA) auditing or reviewing the financial statement, in substantially one of the following forms:

(1) For the period(s) represented in the attached financial statements, we had a guaranteed cost policy for workers' compensation provided by an admitted insurance carrier licensed to do business in the State of Florida. This policy does not have a deductible feature or other retention and is not subject to additional premium or assessment on the basis of claims and loss experience. We have no financial exposure to workers' compensation insurers with respect to policies covering prior periods. Thus, we have no additional liability for workers' compensation that must be presented on our financial statements.

Year End: _____

Signed:

CEO

CFO

Date: _____

Date: _____

~~*Acknowledgment by independent accountants:*~~

~~*We have examined the above assertion made by management of (employee leasing company) in connection with workers' compensation liability as of _____. Our examination was made in accordance with standards established by the American Institute of Certified Public Accountants and, accordingly, included such procedures as we considered necessary in the circumstances.*~~

~~*In our opinion, the assertion represented by management referred to above fairly presents, in all material respects, the workers' compensation liability as of _____ in accordance with generally accepted accounting principles.*~~

GPA
Or,

Date

(2) Workers' compensation constitutes a very significant cost in the operation of an employee leasing company. Many employee leasing companies choose to provide workers' compensation coverage through insurance arrangements that may involve certain retention of risks.

The determination of an appropriate accrual that adequately reflects the cost retained by the employee leasing company is essential to the fair representation of the employee leasing company's financial position and results of operation for the reporting period, in accordance with generally accepted accounting principles.

Ultimate costs for workers' compensation must include a reserve for loss development and a provision for incurred but not reported claims, as determined through the utilization of a variety of generally acceptable actuarial methodologies.

We hereby represent that our financial statements' accrual for workers' compensation is based upon a methodology that accounts for loss development and incurred but not reported claims for the period covered by the attached financial statements, and for all prior periods for which we may have continued financial exposure, as follows:

(a) By an opinion by a Fellow or Associate of the Casualty Actuarial Society, and that such reserve or accrual lies within the range opined upon by such actuary; or

(b) By application of National Council on Compensation Insurance's state-wide loss development factors for each state where the employee leasing company has exposure; or

(c) Through our workers' compensation carriers' loss development factors as furnished to us in writing by an appropriate corporate underwriter or actuary employed by the carrier; or

(d) Through other methodologies described in detail on Exhibit A hereto, resulting in a loss development factor of _____, which our independent accountants consider adequate to enable them to express an opinion on the financial statements as required by Section 468.525(3)(e), F.S., and Rules 61G7-5.0031 and 61G7-5.0032, F.A.C.

Year End: _____

Signed:

CEO

CFO

Date: _____

Date: _____

Acknowledgment by independent accountants:

~~We have examined the above assertion made by management of (employee leasing company) in connection with the methodology used in determining workers' compensation liability as of _____. Our examination was made in accordance with standards established by the American Institute of Certified Public Accountants and, accordingly, included such procedures as we considered necessary in the circumstances.~~

~~In our opinion, the assertion represented by management referred to above presents the methodology used in determining workers' compensation liability as of _____, which fairly presents, in all material respects, the workers' compensation liability in accordance with generally accepted accounting principles.~~

Rulemaking Specific Authority 468.522, 468.524(2), 468.525(3), 468.526, 468.530(3), 468.531 FS. Law Implemented 468.525(3)(e), 468.529 FS. History— New 1-17-99,_____.

1. Will the proposed rule amendments have an adverse impact on small business?

MOTION: Mr. Finkelstein moved that the proposed amendments to Rule 61G7-10.0012, F.A.C. would not have an adverse impact on small business.

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

2. Will the proposed rule amendments be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after implementation?

MOTION: Ms. Dockery moved that the proposed language would not be likely to directly or indirectly increase regulatory costs to any entity (including government) in excess of \$200,000 in the aggregate in Florida within 1 year after implementation.

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

Ms. Clark stated based on the board's response to the questions, an enhanced SERC would not be needed nor ratification pursuant to subsection 120.541 (3), Florida Statutes.

Mr. Morrison advised that DBPR is currently working on the procedures for submitting proposed rule amendments to the Office of Fiscal Accountability and Regulatory Reform.

The board asked if Ms. Mary Ellen Clark could provide some guidance on the board's role in the approval of change of ownership applications at the next meeting.

Ms. Rachel Clark stated she would take the board's request back to Ms. Mary Ellen Clark.

B. Office of the General Counsel – Eric Hurst

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

He further stated his desire for a quorum at the April 2011 meeting to continue with disciplinary proceedings and probable cause.

C. Executive Director – Rick Morrison

No Report.

D. Chairperson – Abram Finkelstein

No Report.

VIII. OLD BUSINESS

None

IX. NEW BUSINESS

Mr. Miller mentioned that Acord forms for worker's compensation certificates of insurance were changing. He stated that the forms would no longer have the 30-day cancellation notice.

Mr. Miller mentioned that Rule 61G7-5.001, F.A.C. mentions the 30 day notification of cancellation and may need to be changed to reflect the new changes.

Ms. Woodard stated she would speak with Mr. Mark Mark from the Department of Financial Services, Workers Compensation Division and see if he has any information on the changes. She stated she would report back at the next meeting or have Mr. Mark present his findings.

X. PUBLIC COMMENTS

None

XI. ADJOURNMENT

MOTION: Mr. Jones moved to adjourn.

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

The meeting adjourned at 11:15 a.m.

Transcripts and/or recordings of the meeting can be obtained upon request.