

MINUTES

**BOARD OF EMPLOYEE LEASING COMPANIES
TELEPHONE CONFERENCE MEETING**

WEDNESDAY, JANUARY 22, 2003

MEET-ME-NUMBER: (850) 921-2530

I. CALL TO ORDER

The meeting was called to order at approximately 10:07 a.m. EST by Ms. Celeste Dockery, Board Chair.

II. ROLL CALL

MEMBERS PRESENT

Celeste Dockery, Chair
David Stroyan, Vice Chair
Richard Goldman
Frank Crum, Jr.
Donna Bloomer
Kelly Lanza

MEMBERS ABSENT

None

STAFF PRESENT

Leon Biegalski, Executive Director, DBPR
Sandi Boyd, Government Analyst II, DBPR
John Rimes, Board Counsel, OAG
Eric Hurst, Assistant General Counsel, DBPR

OTHERS PRESENT

David Hershel, Department of Financial Services
Bruce Leon, Tandem Professional Employer Services, Inc.
Sanford Gross, Gross & Gross, LLC
Michael Miller, Kunkel Miller & Hament
Peter Deutch, EPIX
Peter VanSon, DecisionPEO USA, Inc.
Ted Crawford, Complete Personnel Logistics, Inc.
Dominick D'Amore, The D'Amore Tatum Group, LLC
Calvert Courtney
Marjorie (Midge) Seltzer, Modern Business Associates
Virginia Dorris, NELCO
Ryan Arnold, EmPro Human Resources, LLC

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

III. REVIEW AND APPROVAL OF MEETING MINUTES

A. November 20, 2002, Telephone Conference Meeting Minutes

MOTION: Ms. Donna Bloomer moved to approve these minutes.

SECOND: Mr. Richard Goldman seconded the motion and it passed unanimously.

B. December 11, 2002, General Business Meeting Minutes

MOTION: Ms. Bloomer moved to approve these minutes.

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

IV. REVIEW AND CONSIDERATION OF EMPLOYEE LEASING COMPANY APPLICATIONS

A. Complete Personnel Logistics, Inc. f/k/a Transportation Unlimited, Inc. Jason S. Lucarelli, Controlling Person Applicant Samuel L. Lucarelli, Controlling Person Applicant

Ms. Sandi Boyd presented these applications explaining that the audited year end financial statements submitted reflect deficiencies in tangible accounting net worth and net working capital. She reported that in response to those deficiencies, the company has provided compiled financial statements as of September 30, 2002, which meet the financial levels statutorily required. Regarding the controlling person applicants, Ms. Boyd stated that the credit reports are not clear; however, appear favorable. Additionally, she stated that the Florida Department of Law Enforcement (FDLE) and Federal Bureau of Investigation (FBI) reports have not been received.

Mr. Sanford Gross indicated that Dominick D'Amore, the independent certified public accountant who prepared all the financial statements, was on the conference call. An unidentified male caller (possibly Ted Crawford) stated that The D'Amore Tatman Group, LLC is the auditing firm and is heavily involved with the month by month compilation, the accounting principals applied and the production of that information. The same unidentified male caller further stated that the applicant company understands the information as of September 30, 2002, is preliminary, interim and unaudited, but believes it is representative of how the newly formed company is going to appear. Additionally, this caller stated that while the year-end financial statements (final three months of the year) will have further adjustments to net worth, they do believe that the audited financial statements for December 31, 2002, will have sufficient net worth to meet statutory requirements. Mr. D'Amore stated he agrees with the caller's statement.

MOTION: Ms. Bloomer moved to approve these applications contingent upon receipt of the FDLE and FBI reports.

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

- B. Decision PEO USA, Inc.**
Peter VanSon – CO 620
Steven Patrick Burns – CO 485
William H. Mills, III – CO 536
Harry Edgar Campbell – CO 599

Ms. Boyd presented this group member application indicating that the application appears to be complete with exhibits in compliance.

MOTION: Mr. David Stroyan moved to accept this application.
SECOND: Mr. Goldman seconded the motion and it passed unanimously.

- C. EPIX XVII, Inc. d/b/a EPIX**
Thomas Scott Taylor – CO 465
John Gibson, Controlling Person Applicant

Ms. Boyd presented this group member application and controlling person application. She stated that the group member application appears to be complete with exhibits in compliance. She stated that the only outstanding items relating to the controlling person application are the FDLE and FBI reports.

MOTION: Mr. Goldman moved to accept these applications contingent upon receipt of the FDLE and FBI reports.
SECOND: Ms. Lanza seconded the motion and it passed unanimously.

Mr. Miller expressed his belief that the FBI has slowed in processing criminal background reports. He inquired whether the Board would consider accepting reports for ChoicePoint or Equifax stating that everything is clear rather than waiting for the FBI report. Ms. Boyd stated that in the past the Board has accepted the ChoicePoint report if it was clear with the contingency that should the FBI report be returned unclear, the applicant would agree to come back before the Board. Mr. Miller stated that all his clients would certainly be agreeable to that. Ms. Boyd stated her only concern would be that ChoicePoint does its background checks only in cities where the applicants state they have resided, and that offenses could have occurred in other cities not disclosed by the applicants. Mr. Miller stated that is why he thought that it made sense to approve the application, but require that the applicant agree to come back before the Board should the FBI report reveal undisclosed convictions. Mr. Miller expressed concern for smaller companies, who may only have one controlling person, being required to wait for months, through no fault of their own, for the FBI report to be returned before they can conduct business. The Board took no action on this matter.

**D. EmPro Human Resources, LLC
Ryan Jess Arnold, Controlling Person Applicant**

Ms. Boyd presented these applications explaining that they had been presented to the Board at the December 11, 2002, general business meeting. Mr. Rimes read the Board's motion from the December meeting minutes that the Board had approved these applications contingent upon receipt of a letter from the carrier or agent within 30 days stating that the policy issued does not exclude leased employees in Florida and an agreement in writing from the applicant that if it determines to conduct any additional business in Florida, it will comply with the requirements that would include obtaining a policy in Florida that does not exclude leased employees in Florida.

Ms. Boyd stated she was presenting these applications to the Board again because the letter received from the agent does not specifically reference Florida leased employees. Ms. Boyd pointed out that the Certificate of Insurance states that coverage applies to employees of EmPro Human Resources, LLC, anywhere in the state of Idaho and to any employee living in Idaho, but working temporarily in a neighboring state. Mr. Miller stated that the letter from the agent is maybe even broader because there is no restriction. Ms. Lanza stated that the policy does appear to restrict it. Mr. Miller stated that there is no exclusion for leased employees.

Mr. Miller stated that this is that unique situation where it is the hockey league where there is a collective bargaining agreement and there is a union policing it. He further stated that they have no intent of ever having any other employees in the state of Florida. He indicated that if they ever tried to provide their own insurance, the union would be unhappy. Mr. Miller stated that because the letter says there is no exclusion for leased employees that would mean no exclusion for leased employees in the entire nation. Mr. Goldman stated that there may be no exclusion, but there is no inclusion. Mr. Goldman pointed out that the leased employees may not be excluded because they are leased employees, but rather they are excluded because they are not working in a neighboring state.

Mr. Hershel stated that there may be an exclusion in Chapter 440, Florida Statutes, for athletes that are covered under a collective bargaining agreement. Mr. Miller stated that the bottom line is that the collective bargaining agreement in the union would require the athletes to be covered and they are covered.

Ms. Lanza expressed her belief that the response received did not adequately cover what the Board had asked for. The Board requested that the motion made at the Board's December meeting be read again, which Mr. Rimes did.

Mr. Goldman inquired about staff and other people that work for the hockey team such as office staff, publicity and marketing people, medics, etc. and where they would go for coverage since they are not hockey players. Mr. Miller stated that there is still a policy that covers all these people coming out of the union and

league. Mr. Goldman expressed his belief that staff who are not hockey players are not unionized employees and are not members of the players' association. Mr. Miller stated that he has been informed that there is a policy that covers every employee that would be covered under the leasing agreement.

Mr. Goldman inquired whether under the leasing agreement the only leased employees would be the union members. Mr. Miller stated that to the best of his knowledge that was exactly correct because they had to get a sign off from the union. Mr. Goldman stated that does not necessarily indicate that the front office employees are not part of this deal.

Mr. Rimes stated that it was represented to the Board at its last meeting that the only people who were leased were the hockey players and the Board required that the company agree that if they were going to do any additional business, they would get a Florida workers' compensation policy. Mr. Goldman referred to the applicant's letter of November 25, 2002, pointing out that it states their intent is to provide services to a professional hockey league, which has teams in Florida, and workers' compensation insurance will be provided by each team. He indicated that it appears the company is providing services to the league, not the individual teams, and leagues generally have front office people, so it is unclear.

Mr. Hershel read a section in Chapter 440, Florida Statutes, relating to collective bargaining agreements, which would indicate that the professional hockey players would be covered.

Mr. Rimes asked if the leased employees were being covered by a policy purchased pursuant to a collective bargaining agreement with the league. Mr. Miller stated that yes, it is all pursuant to an agreement between the union and the league. Mr. Rimes asked if the league was the one that purchased the policy. Mr. Miller stated that is right. He added that from his understanding carriers do not want to write professional athletes and that is why there is a collective bargaining agreement and the league is in a situation where it in fact has the workers' compensation policy for all the teams and for the players.

Ms. Bloomer stated she was satisfied with the letters received.

Mr. Stroyan inquired whether there were employees other than the players where the teams are located in Florida. Mr. Miller answered that as far as he knows no because this is an agreement that is tied in through the teams and the league. Mr. Stroyan asked if the employees who are not hockey players are leased, and if so, who covers them because they do not live in Idaho or a neighboring state. Mr. Miller expressed his desire to contact the controlling person applicant, Mr. Ryan Arnold, and have him call in to the meeting. Mr. Miller stated he could only guess that there is one policy that covers everyone throughout the nation including hockey players and clerical workers, but that was a guess.

MOTION: Mr. Stroyan moved to table these applications until later in the meeting when Mr. Arnold could call in, and if Mr. Arnold is unable to call in, revisit these applications later in the meeting.

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

**E. Tandum Professional Employer Services, Inc.
Bruce Leon, Controlling Person Applicant**

Ms. Boyd presented these applications explaining that only the balance sheet from the audited financial statements was received and reflects a deficiency in tangible accounting net worth. She reported that there was a guaranty form submitted, but it would not elevate the net worth to the \$50,000 required.

Mr. Miller stated that the company is a member of ESAC, who meet the highest ethical and financial standards set by NAPEO. Mr. Miller reported that there are only about 20 companies in the nation that subject themselves to ESAC's fiscal scrutiny. He further reported that Mr. Leon is on the board of directors of ESAC. Mr. Miller reported that the company has a million-dollar surety bond that ESAC provides to its members and they would not be providing the bond if this company did not adhere to this higher standard.

Mr. Leon indicated that it was an oversight for the guaranty amount not to cover the \$50,000 tangible accounting net worth required and would be willing to increase the guaranty amount.

While the Board was considering the company's financial information, Ms. Boyd stated that the credit report for Mr. Leon is not clear; however, appears favorable. She added that the FDLE and FBI reports have not been received, but confirmed that a ChoicePoint report for Mr. Leon had been received.

Ms. Bloomer inquired why there was no income statement provided. Mr. Leon stated he thought it had been submitted.

MOTION: Ms. Bloomer moved to approve these applications contingent upon receipt of the missing income statement; a guaranty in an amount to meet the minimum tangible accounting net worth required; and FDLE and FBI reports.

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

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

- **Benefits Plus, Inc.
(L. Barrie Hinman, President/Owner)**

Ms. Boyd presented this application indicating that it appears to be complete.

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

VI. REVIEW AND CONSIDERATION OF CHANGE OF OWNERSHIP APPLICATION

- **Equity Leasing – Finance, Inc.**
Purchaser: S C of Florida, Inc. – EL 244
(Henry Carter Hardin, III – CO 51)
(Joseph Christopher Dominguez – CO 371)

Ms. Boyd presented this application indicating that the application appears to be complete.

MOTION: Ms. Bloomer moved to accept this application.
SECOND: Mr. Goldman seconded the motion and it passed unanimously.

VII. REVIEW AND CONSIDERATION OF CONTROLLING PERSON LICENSE RELINQUISHMENT

- **John Paul Melton, Jr. – CO 598**
JPM Management, Inc. d/b/a American United Employers – EL 241

Ms. Boyd presented this relinquishment stating there are no open complaints against this licensee.

MOTION: Ms. Lanza moved to accept this license relinquishment.
SECOND: Ms. Stroyan seconded the motion and it passed unanimously.

VIII. REVIEW AND CONSIDERATION OF NAME CHANGE APPLICATIONS

- A. JPM Management, Inc. d/b/a American United Employers – EL 241**
TO: American United Employers, Inc.

Ms. Boyd presented this application.

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

- B. People Leasing, Inc. – GL 96**
TO: Employee Leasing Solutions Two, Inc.
People Leasing Two, Inc. – GM 228
TO: Employee Leasing Solutions, Inc.
People Leasing Three, Inc. – GM 229
TO: Employee Leasing Solutions Three, Inc.
People Leasing Four, Inc. – GM 230
TO: Employee Leasing Solutions Four, Inc.

Ms. Boyd presented these applications.

MOTION: Mr. Goldman moved to approve these applications.
SECOND: Ms. Bloomer seconded the motion and it passed unanimously.

**RECONSIDERATION OF AGENDA ITEM IV. D. EMPRO HUMAN RESOURCES, LLC
AND RYAN JESS ARNOLD, CONTROLLING PERSON APPLICANT**

Mr. Ryan Arnold indicated he was on the call. Mr. Miller stated that Mr. Arnold can answer questions regarding the hockey league and the union having signed off on it and he said he guessed the fact that the league's workers' compensation policy covers everyone, both those within and outside the collective bargaining agreement. Mr. Miller asked Mr. Arnold if that was correct. Mr. Arnold indicated that it was.

Mr. Goldman stated that there are two hockey teams and they include the players and others such as the front office people, managers, coaches, trainers, etc. who would be leased employees and inquired of Mr. Ryan if that was correct. Mr. Arnold stated that was correct. Mr. Goldman stated that those people are not employees of the union and inquired of Mr. Ryan if that was correct. Mr. Arnold stated that was correct.

Mr. Goldman stated he was unaware whether union policies cover those people who are not professional athletes in the state of Florida. Mr. Goldman added that he was unaware in the state of Florida whether because you are a member of a union that exempts you from having workers' compensation or that the policy would cover you because you are not an employee of the union other than specific cases of professional athletes themselves. Mr. Miller stated this is a policy handled by the league and is not the union's policy and then he asked Mr. Ryan if that was correct. Mr. Ryan stated it does not have anything to do with the union.

Mr. Goldman inquired if these were league employees and who pays their salary and fills out a 941 for them at the end of the year. Mr. Arnold replied that in this case probably the leasing company would. Mr. Arnold added that the leasing company aside, it would be the league.

Mr. Goldman inquired whether Mr. Arnold was relying on the collective bargaining agreement to cover the workers' compensation for the front office people. Mr. Arnold replied that he was not and that the collective bargaining agreement and the union have nothing to do with the workers' compensation policy. Mr. Arnold added that the union has approved this, but the union is not the employer.

Mr. Goldman inquired who is providing workers' compensation coverage for the clerical employees who are working for these hockey teams in the state of Florida. Mr. Arnold indicated that whether the leased employees are the hockey players or the clerical staff, it makes no difference, and they are all covered under the same policy. Mr. Goldman stated that the owners of the team procured separate workers' compensation policies for their employees and asked if that was correct. Mr. Arnold replied that was correct. Mr. Goldman stated that Mr. Arnold is relying on the fact that these clients in Florida

have procured their own coverage, and therefore, EmPro is not going to be providing any coverage for the leased employees in Florida. Mr. Arnold stated that was correct.

Mr. Goldman stated that EmPro's Idaho policy is not going to cover the leased employees. Mr. Arnold replied that is correct. Mr. Goldman inquired whether this situation would then be covered under the Board's new rule (relating to client-based policies). Mr. Rimes stated that this brings the Board back to the question of what the default requirements are for an employee leasing company and whether those utilizing client-based policies must have some default policy in place that would cover the leased employees in the event that the client fails in providing coverage.

Mr. Rimes inquired whether there is an additional endorsement to EmPro's Idaho policy that would extend coverage to leased employees in Florida. Mr. Arnold indicated that EmPro's Idaho policy would only extend coverage to residents of Idaho. Mr. Rimes stated that the policy, while it does not appear to exclude leased employees, there is no coverage for employees in the state of Florida at all. Mr. Arnold replied that was correct. Mr. Miller indicated he assumes there is a master policy on which all the teams are added as additional insureds that satisfies the hockey union that their members are protected. He added that since their members are protected, he guessed those few that are outside the union are going to be protected. Mr. Goldman stated that it is not clear.

Mr. Miller asked Mr. Arnold if it was correct that he has no intent of ever having any additional employees in the state of Florida. Mr. Arnold indicated that is correct.

Ms. Lanza inquired why Mr. Arnold wanted his company to become licensed as an employee leasing company if he is only covering the two hockey teams. Mr. Arnold stated that it is because they service other teams in the league so they are hoping to provide services to the entire league. Ms. Lanza inquired whether he would be obtaining other teams in Florida. Mr. Arnold stated no and added that there are only two teams in Florida and that would be all.

The Board discussed approving these applicants subject to proof of coverage for the hockey teams; the Board being named a certificate holder for the client-based policies; the Board receiving a copy of the hockey team policies; restricting the license to the two hockey team clients only; providing the Board with a client list; and prohibiting any additional clients. Ms. Lanza stressed that the hockey team policies should not exempt leased employees. The Board requested that the company provide the Board office with a copy of the policies for the hockey teams.

MOTION: Mr. Stroyan moved to reconsider these applications once Ms. Lanza has reviewed a copy of the client-based policies and can report her findings.

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

Mr. Hershel stated that he needed to leave the meeting, but wanted to report that the letter he had promised the Board is in the final stages and the Board should have it within a week.

Ms. Boyd stated that the Board has now required that the Board office be a certificate holder for client-based policies utilized by EmPro. She inquired whether the Board would now begin requiring others to name the Board office as a certificate holder on client-based policies and expressed concern with the impact that could have on the workload of the Board office. She also expressed concern with the Board imposing different licensing requirements for different employee leasing companies and the Board office attempting to track those. The consensus of the Board was that there would be no further exceptions of this type, which is only occurring because of uniqueness of the situation.

Mr. Rimes stated that part of the reason this problem is occurring is because there is no joint underwriting entity for the state of Florida open to employee leasing companies. He strongly suggested that if the Board is going to have this exception, that once coverage is opened up to employee leasing companies, that the Board require the applicant to get into that pool. The consensus of the Board was in agreement with Mr. Rimes' suggestion. Mr. Arnold stated that he would be more than happy to do that.

IX. RULES REPORT – John Rimes, Board Counsel

Mr. Rimes reported that the amendment to Rule 61G7-10.0014, Florida Administrative Code, to clarify the requirements for evidence of workers' compensation coverage has been noticed and will appear in this Friday's Florida Administrative Weekly.

Ms. Boyd stated that she has had inquiries from the public about standard attestation language the Board might make available for the new workers' compensation rule. After a brief discussion, the consensus of the Board was that Mr. Rimes and Ms. Lanza would work together to draft suggested language which may be utilized by licensees to attest that all leased employees in Florida have workers' compensation coverage as required by Rule 61G7-10.0014, F.A.C. Mr. Miller stated that he had drafted language in an affidavit form and he would provide it to Mr. Rimes.

X. ADJOURNMENT

There being no other business, Ms. Dockery entertained a motion to adjourn.

MOTION: Mr. Goldman moved to adjourn the meeting.

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

The meeting was adjourned at approximately 11:40 a.m. EST.