

**BOARD OF EMPLOYEE LEASING COMPANIES
GENERAL BUSINESS MEETING MINUTES
THE RITZ-CARLTON GOLF RESORT
2600 TIBURON DRIVE
NAPLES, FLORIDA 34109
239-593-2000**

**SEPTEMBER 30, 2015
1:30 P.M. EST**

I. CALL TO ORDER

The meeting was called to order at approximately 1:33 p.m. EST by Mr. Abram Finkelstein, Board Chair.

II. ROLL CALL

MEMBERS PRESENT

Abram Finkelstein, Chair
John Jones, Vice Chair
Eric Arfons
Richard Scott Buchanan
Emery Ellinger

MEMBERS ABSENT

Celeste Dockery (*excused*)

STAFF PRESENT

Rick Morrison, Executive Director, DBPR
Mary Ellen Clark, Board Counsel, Office of the Attorney General
Lynette Norr, Board Counsel, Office of the Attorney General
James Fortunas, Assistant General Counsel, DBPR
Krista Woodard, Government Analyst, DBPR
Tenasha Riley, Government Analyst, DBPR

OTHERS PRESENT

Michael Miller, Kunkel, Miller & Hament, P.A. and FAPEO
Timothy Tack, Kunkel Miller & Hament, P.A.
Torben Madson, Kunkel Miller & Hament, P.A.
Tim Cline
Jason Lucarelli
Jim Karle
Gordon Berger, Esquire

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

Mr. Finkelstein introduced and welcomed Mr. Emery Ellinger as the new consumer member to the board.

III. THE PLEDGE OF ALLEGIANCE

Mr. Finkelstein led all in the Pledge of Allegiance.

Mr. Finkelstein welcomed and introduced Ms. Lynette Norr advising that she would be taking over as Board Counsel at the November 2015 meeting or soon thereafter.

The members of the Board welcomed Mr. Ellinger and Ms. Norr.

IV. REVIEW AND APPROVAL OF THE AUGUST 19, 2015 TELEPHONE CONFERENCE CALL MEETING MINUTES

MOTION: Mr. Jones moved to approve the minutes.

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

Mr. Ellinger abstained from the vote due to him not being a member of the board at that time.

V. DISCIPLINARY PROCEEDINGS – Office of the General Counsel

A. MOTION FOR WAIVER OF RIGHTS AND FINAL ORDER

1. **Key Vista Associates, Inc.**

Case Number: 2013-032709

2. **Marc Combs**

Case Number: 2013-032694

PCP: Seltzer and Stamatyades – February 17, 2015

Mr. Fortunas advised that he was pulling these cases from the agenda and would present them at a later meeting.

3. **Robert Cassera**

Case Number: 2014-022473

4. **Robert Cassera**

Case Number: 2014-028970

5. **TS Employment, Inc.**

Case Number: 2014-022456

6. **STS Group, Inc.**

Case Number: 2014-028968

PCP: Seltzer and DiMascio – November 13, 2014

Mr. Fortunas presented the cases explaining they stem from violations involving failure to timely submit the 2013 annual assessment fee, failure to timely submit the 2013 annual financial statement, failure to submit the 2013 4th quarter report, and failure to conform to any lawful order of the Board.

MOTION: Mr. Jones moved to that the administrative complaint was properly served on the Respondents and the Respondents have failed to timely respond and have therefore have waived their rights to dispute the material facts in these cases.

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

MOTION: Mr. Jones moved to adopt the allegations of facts and the conclusions of law contained in the administrative complaints as those of board.

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

MOTION: Mr. Jones moved to impose an administrative fine of \$80,000, costs of \$36.34, and revocation of the licenses.

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

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| 7. | EA Advantage, LLC | Case Number: 2014-025727 |
| 8. | Nylen Lee Allphin | Case Number: 2014-025732 |
| | <i>PCP: Seltzer and DiMascio – November 13, 2014</i> | |

Mr. Fortunas advised that he was pulling these cases from the agenda and would present them at a later meeting.

B. HEARINGS IN WHICH THERE ARE NO DISPUTED ISSUES OF MATERIAL FACT

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| 1. | Paychecks Plus, Inc. | Case Number: 2014-036139 |
| 2. | Cherie M. Fretto | Case Number: 2014-036130 |
| | <i>PCP: Seltzer and Stamatyades – February 17, 2015</i> | |

Mr. Fortunas presented the cases explaining they stem from violations involving failure to timely renew and pay the appropriate fees of the controlling person.

- MOTION: Mr. Jones moved to adopt the allegations of fact and conclusions of law contained in the administrative complaint.
- SECOND: Mr. Arfons seconded the motion and it passed unanimously.
- MOTION: Mr. Arfons moved to impose an administrative fine of \$600 and costs of \$54.47 per case with joint and several liabilities for payment of the fine and costs.
- SECOND: Mr. Ellinger seconded the motion and it passed unanimously.

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| 3. | Charles David Wood, Jr. | Case Number: 2014-036139 |
| 4. | Charles David Wood, Jr. | Case Number: 2014-006932 |
| | <i>PCP: Seltzer and Jones – September 18, 2014</i> | |
| 5. | Charles David Wood, Jr. | Case Number: 2014-041407 |
| 6. | Charles David Wood, Jr. | Case Number: 2014-041474 |
| 7. | GPS Financial Services, Inc. | Case Number: 2014-041402 |
| 8. | AMS Staff Leasing, Inc. | Case Number: 2014-041412 |
| 9. | GPS PEO, Inc. | Case Number: 2014-041416 |
| 10. | AMS Staff Leasing II | Case Number: 2014-041471 |
| 11. | Aspen Staff Leasing, Inc. | Case Number: 2014-041477 |
| | <i>PCP: Waived</i> | |

Mr. Fortunas advised that he was pulling these cases from the agenda and would present them at a later meeting.

C. SETTLEMENT STIPULATIONS

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| 1. | United Systems Administration of FL, Inc. | Case Number: 2013-028623 |
| 2. | Frederick Keith Davis | Case Number: 2013-028618 |
| | <i>PCP: Seltzer and Jones – September 18, 2014</i> | |

Mr. Fortunas presented the cases explaining they stem from violations involving failure to submit the 2012 and 2013 Annual Financial Statement within 120 days after the end of the fiscal year, failure to submit the 2012 4th Quarter Report; 2013 1st, 2nd, 3rd, and 4th quarter reports; and 2014 1st Quarter Report, failure to pay a citation fine of \$750, failure to maintain workers' compensation

coverage, failure to submit the 2013 annual assessment fee, and failure to have a registered agent for service of process in this state from year 2010-2012

Mr. Fortunas stated the settlement stipulation provides for imposition of an administrative fine of \$8,000.00, costs of \$90.70 with joint and several liabilities for payment of fine and costs.

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

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

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| 3. | Southeastern Employee Benefits Group, Inc. | Case Number: 2013-028179 |
| 4. | James M. Karle | Case Number: 2013-028174 |
| 5. | Larry Evans | Case Number: 2013-028176 |
| 6. | Lewis M. Carter | Case Number: 2013-028184 |

PCP: Seltzer and Stamatyades – February 17, 2015

Mr. Fortunas presented the cases explaining they stem from violations involving failure to timely submit the 2012 and 2013 Annual Assessment fees and having negative net working capital deficiencies in the 2013 Annual Financial Report and the 2014 1st, 2nd, and 3rd Quarter Reports.

Mr. Fortunas stated the settlement stipulation provides for imposition of an administrative fine of \$6,500, costs of \$79.85, with joint and several liabilities for payment of the fine and costs.

Mr. Gordon Berger, Esquire was present to represent the Respondents. Mr. Karle was also in attendance.

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

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

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| 7. | Quick Lease HRS, Inc. | Case Number: 2014-024267 |
| 8. | John P. Izzo | Case Number: 2013-036784 |

PCP: Seltzer and Jones – September 18, 2014

Mr. Fortunas presented the cases explaining they stem from violations involving failure to timely submit the 2012 Annual Financial Statement.

Mr. Fortunas stated that the Subjects would cease operations as an employee leasing company and controlling person within 30 days of the acceptance of the voluntary relinquishment and has executed a Voluntary Relinquishment with no right of reapplication and costs of \$76.58 and \$72.06.

MOTION: Mr. Finkelstein moved to accept the voluntary surrender of the licenses and costs.

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

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| 9 | Complete Personnel Logistics, Inc. | Case Number: 2014-024267 |
| 10. | Jason Lucarelli | Case Number: 2014-024283 |
| 11. | Samuel Lucarelli | Case Number: 2014-024303 |

PCP: Seltzer and Jones – April 15, 2015

Mr. Fortunas presented the cases explaining they stem from violations involving failure to timely submit the 2013 Annual Financial Statement, submitting the 2014 2nd and 3rd quarter reports with negative net worth and net working capital deficiencies, and submitting an Annual Financial Statement where the working capital and net worth could not be determined.

Mr. Fortunas stated the settlement stipulation provides for imposition of an administrative fine of \$2000, costs of \$63.45, with joint and several liabilities for payment of the fine and costs.

Mr. Tim Cline, Esquire was present to represent the Respondents. Mr. Jason Lucarelli was also in attendance.

MOTION: Mr. Finkelstein moved to reject the settlement stipulation as presented and presented a counter offer of an administrative fine of \$3500, costs of \$63.45, with joint and several liabilities for payment of the fine and costs.

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

Mr. Cline verbally accepted the counter offer for the Respondents.

12. **C. Michael Brown, Inc.**

Case Number: 2014-023808

13. **Barrie L. Brown**

Case Number: 2014-023819

PCP: Seltzer and Stamatyades – February 17, 2015

Mr. Fortunas presented the cases explaining they stem from violations involving failure to timely submit the 2013 Annual Financial Statement.

Mr. Fortunas stated the settlement stipulation provides for imposition of an administrative fine of \$1500, costs of \$35.25, with joint and several liabilities for payment of the fine and costs.

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

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

14. **Staff One, Inc.**

Case Number: 2014-024063

15. **Mark Richard Sinatra**

Case Number: 2014-024073

PCP: Seltzer and Stamatyades – February 17, 2015

Mr. Fortunas presented the cases explaining they stem from violations involving failure to timely submit the 2013 Annual Financial Statement, and failure to renew the controlling person license within 30 days of the renewal date.

Mr. Fortunas stated the settlement stipulation provides for imposition of an administrative fine of \$2000, costs of \$80.57, with joint and several liabilities for payment of the fine and costs.

Mr. Tim Tack, Esquire was present to represent the Respondents.

MOTION: Mr. Finkelstein moved to reject the settlement stipulation as presented and presented a counter offer of an administrative fine of \$4000, costs of \$80.57 per case, with joint and several liabilities for payment of the fine and costs.

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

Mr. Tack advised that he has been authorized to verbally accept the counter offer for the Respondents.

16. Direct HR Services, Inc.

Case Number: 2014-034855

17. Suzanne G. Burrow

Case Number: 2014-037305

PCP: Seltzer and Stamatyades – February 17, 2015

Mr. Fortunas presented the cases explaining they stem from violations involving failure to pay unemployment taxes and penalties, failure to file a full description of a plan of self-insurance, failure to submit the 2nd and 3rd Quarter Financial reports, and for making misleading, deceptive, or fraudulent representations in the practice of the licensee's profession, by failing to reference unpaid medical claims, and workers' compensation deductibles in quarterly reports.

Mr. Fortunas stated that the Subjects would cease operations as an employee leasing company and controlling person within 30 days of the acceptance of the voluntary relinquishment and has executed a Voluntary Relinquishment with no right of reapplication and the imposition of an administrative fine of \$2500, with joint and several liabilities for payment of the fine and costs.

A very lengthy discussion ensued about self-insurance in the PEO industry. The consensus of the board was that it is not permissible nor can an employee leasing company offer a plan of self-insurance for health benefits in the state of Florida.

MOTION: Mr. Finkelstein moved to reject the settlement stipulation as presented and presented a counter offer of an administrative fine of \$50,000, and the Voluntary Relinquishments with no right of reapplication.

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

18. Employer Payroll Solutions, Inc.

Case Number: 2014-042988

19. William Anthony Boyd

Case Number: 2014-042993

PCP: Seltzer and Jones – April 15, 2015

Mr. Fortunas presented the cases explaining they stem from violations involving failure to timely submit the 2013 Annual Financial Statement.

Mr. Fortunas stated the settlement stipulation provides for imposition of an administrative fine of \$200, costs of \$62.26, with joint and several liabilities for payment of the fine and costs.

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

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

VI. DISCUSSIONS

- **August 28, 2015 JAPC Letter – Rule 61G7-5.002, F.A.C.**
- **SERC for Rule 61G7-5.002, F.A.C.**

Ms. Clark advised that the SERC for Rule 61G7-5.002, F.A.C. was being brought back to the board due it being revised to answer concerns addressed by JAPC in an August 28, 2015 correspondence.

Ms. Clark advised that she and Mr. Morrison have made the requested corrections and are presenting the revised SERC to the board for approval.

MOTION: Mr. Jones moved to approve the revised SERC and directed Ms. Clark/Ms. Norr to draft a response to JAPC.

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

- **Rule 61G7-5.0033, F.A.C.**
- **DBPR EL 4518 – Board Approved Cross Guaranty Form**

The board, along with members of the audience, discussed possible changes to the Board Approved Cross Guaranty Form.

After discussion, the board directed staff to make the requested changes to the form and to bring it back to the board for review at the October 2015 telephone conference call meeting.

The meeting recessed for the day at 4:49 p.m. to resume the next day.

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