

**BOARD OF EMPLOYEE LEASING COMPANIES
GENERAL BUSINESS MEETING MINUTES**

**SHERATON SUITES – TAMPA AIRPORT
4400 WEST CYPRESS STREET
TAMPA, FLORIDA 33607**

**August 20, 2003
8:30 a.m. EST**

I. CALL TO ORDER

The meeting was called to order at approximately 8:30 a.m. EST by Ms. Celeste Dockery, Board Chair.

II. ROLL CALL

MEMBERS PRESENT

Celeste D. Dockery, Chair
David B. Stroyan, Vice Chair
Frank W. Crum, Jr.
Kelly Lanza
Carlos Rodriguez

MEMBERS ABSENT

Donna Bloomer

STAFF PRESENT

Jerry Wilson, Deputy Director, Professions, DBPR
Juanita Chastain, Executive Director, DBPR
Krista B. Woodard, Government Analyst II, DBPR
John Rimes, Board Counsel, Office of Attorney General
Eric Hurst, Assistant General Counsel, DBPR

OTHERS PRESENT

Michael Miller, Kunkel, Miller & Hament, P.A. and FAPEO
George Gersema, Employers Resource of America, Inc.
Wayne Lynn, Teamstaff
Bert Danzig, Spectrum HR
Gary Wetstein, Spectrum HR
Calvert Courtney, Spectrum HR
Janice DiRose, Spectrum HR
Bill Holt, HCI - Tampa
Linda Alcathe, NELCO
Kelly A. Hickson, Sclafani Williams Court Reporters, Inc.

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

Ms. Chastain informed the board that Ms. Bloomer e-mailed the board office earlier in the week stating that she would not be able to attend the meeting.

III. REVIEW AND APPROVAL OF THE JULY 16, 2003, TELEPHONE CONFERENCE CALL MEETING MINUTES

MOTION: Mr. David Stroyan moved to approve the minutes.
SECOND: Mr. Frank Crum, Jr. seconded the motion and it passed unanimously.

IV. SETTLEMENT STIPULATIONS

Case #

A. Miralink Group, Inc. 2002-005985
(PCP: Lanza and Crum, February 19, 2003)

B. Miralink Group, Inc. 2002-01308
(PCP: Lanza and Crum, April 16, 2003)

Mr. Eric Hurst presented these cases explaining that the cases stem from violations of Chapter 468.532(1)(g), Florida Statutes, involving failure to maintain workers' compensation coverage with a carrier licensed in the State of Florida. The company has now filed bankruptcy and has ceased operations. Mr. Hurst stated that the settlement stipulation provides for a revocation of the respondent's license.

MOTION: Ms. Dockery moved to accept the settlement stipulation.
SECOND: Mr. Rodriguez seconded the motion and the it passed unanimously.

C. Stephen M. Cohen 2001-00709
(PCP: Dockery and Crum, February 14, 2001)

Mr. Eric Hurst presented the case explaining that it stems from violations involving failure to include all group members in the third quarterly 2000 report, failure to maintain positive working capital, and failure to maintain workers' compensation coverage for its clients and employees. Mr. Hurst stated that the settlement stipulation provides for a \$500 fine and a reprimand. He further stated that no costs were associated with this case due to the fact that the Respondent was the whistleblower.

MOTION: Mr. Rodriguez moved to accept the settlement stipulation.
SECOND: Ms. Lanza seconded the motion and it passed unanimously.

D. TMG Staffing, Inc. 2002-008388
(PCP: Lanza and Crum, June 18, 2003)

Mr. Eric Hurst presented the case explaining that the case stems from violations of section 468.532(1)(g), Florida Statutes, involving failure to maintain workers' compensation coverage with a Florida admitted carrier. The Respondent is currently abiding by a Department of Insurance's stop-work order until proper coverage is obtained. Mr. Mike Miller, Esquire, was present and represented the Respondent. Mr. Hurst stated that the settlement stipulation provides for a \$500 fine and costs of \$301.17.

MOTION: Ms. Dockery moved to accept the settlement stipulation.
SECOND: Mr. Stroyan seconded the motion and it passed unanimously.

V. EMPLOYEE LEASING COMPANY/ CONTROLLING PERSON APPLICATIONS

**A. Exceptional Personnel, Inc.
Susan A. Ralston - CP Applicant**

Ms. Woodard presented the applications stating that all exhibits were submitted and complete.

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

**B. Employers Resource of America, Inc.
George H. Gersema – CP Applicant**

Ms. Woodard presented these applications explaining that they had been presented to the board at the June 18, 2003 and July 16, 2003 board meetings. She reported that at the July 16, 2003 meeting, the board requested to review the Response and Summary Judgment materials pertaining to the case involving the Department of Labor in the state of Idaho. Ms. Woodard further stated that the board office had received letters from H. Britt Landrum, Barry Byrd, Michael North, and Greg Rutherford in support of the applications. Mr. Gersema was present and was represented by Mr. Mike Miller and Ms. Tamsen Leachman, Esquires. Ms. Leachman joined the meeting via telephone conference.

MOTION: Ms. Dockery moved to approve the applications.
SECOND: Ms. Lanza seconded the motion.

The floor was opened for discussion of the application.

Mr. Rodriguez stated that he was concerned about the cases pending in Idaho and felt that the board should review the financial statements of the trust. Therefore, he felt that approval of the applications is not appropriate at this time.

Mr. Miller addressed the board stating that the financials were not included in the agenda materials due to the public nature of the meeting and the confidential nature of the statements. He further stated that is why the letters from respected members of the profession were submitted.

Mr. Gersema addressed the board stating that in America, a person was innocent until proven guilty and that it is unfair to deny the applications based on possible allegations. He stated that he felt that at the conclusion of the cases that he and the company would be proven innocent.

Mr. Rodriguez stated this was not a trial and that the duty of the board was to protect the citizens of Florida. He further stated that he appreciated the letters of recommendation, but he still had concerns about the allegations of the employee benefit plans not being properly funded.

Mr. Gersema addressed the board stating that IBNR should be considered and that all claims have been paid and that to his knowledge there is no complaints. He does not

think that the IBNR that exist in the trust is under-funded or under-reserved.

Ms. Dockery asked Mr. Rimes if the financials for the trust were submitted, would they become public information.

Mr. Rimes stated that the financials of the trust are not part of the application. It is something that the board would be requesting in addition to the application. He further stated that if it was the financial information of the applicant, it would become public information to the board, not general public. He stated that the Statutes do not address the issue of requesting additional information when it is not the applicant. It is an open question and he understands their concerns. He further stated that the initial application information is public information. However, the quarterly and annual financial statements are confidential.

Mr. Stroyan stated that in the past, a parent company would not have a problem supplying financial information.

Mr. Gersema stated that he has no problem supplying the board with copies of the parent company financial statements. He just had concerns with supplying the financials of the trust.

Mr. Rodriguez further stated that on page 834 of the agenda materials, there was a statement indicating the "the evidence relied upon by DOL does not fully and fairly reflect the actual financial performance of the Plan because the numbers reported in the Audited Financial Statement include hypothetical, estimated IBNR figure."

Mr. Rimes stated that in that specific response on page 834 of the agenda materials, it appears that they were trying to explain why the numbers that DOL is asserting, that they say come from the audited financials, don't show what they say they show.

Ms. Leachman stated the language that was in discussion was drafted by her and the point that she was trying to make was that they were not trying to ignore the IBNR because that is an accounting principle and it is part of accounting and disclosure. However, in truly evaluating the status of the plan, the Department of Labor is arguing that it was grossly under-funded and they were not differentiating the IBNR from the other numbers. She further stated that what she was trying to do was make the Department of Labor recognize that the numbers presented were composite numbers and it includes both the health and the workers compensation plans of the trust and that a component of the numbers was the IBNR. She felt that the Department of Labor was over-simplifying and assuming too much.

Mr. Stroyan asked who determined the IBNR.

Ms. Leachman stated that the IBNR came out of the audited financial statements.

Ms. Dockery asked Mr. Gersema what was his relationship today with the Third Party Administrator (TPA) and the re-insurer that represented him at that time.

Mr. Gersema stated that he has a new TPA and a new re-insurer.

Mr. Stroyan stated that it seems to him that their former CPAs had come up with a number and their former TPA and re-insurer are all saying one thing and you are saying

that it is not true. He further stated that these are the experts that they hired that made a recommendation that you did not agree with it and it indicates a weakness in the plan.

Mr. Rodriguez voiced concerns over the fact that the company was given advice on changes to their plans but they failed to adhere to the recommendations. That is the reason why he had concerns about how the plans are being managed and funded.

Ms. Dockery stated that she felt the only way to satisfy the board is to submit the financials of the trust prepared by an accountant or CPA, and that she would be willing to withdraw her motion to approve the applications if they would be willing to present the board with the financials of the trust.

Mr. Stroyan stated that he would like to see the audited financial statements of the trust.

Mr. Rimes asked Ms. Leachman if the audit was produced under protective order.

Ms. Leachman replied in the affirmative.

MOTION: Ms. Dockery made a motion to withdraw approval of the applications and postpone discussion until the board has been supplied with an opinion letter from an auditor indicating a clean opinion of the audited financial statements of the trust.

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

The Board recessed at 9:55 a.m. until 10:10 a.m.

C. MaxStaf, Inc.
Bonnie Stinson - CP Applicant
Max Stinson – CP Applicant

Ms. Woodard presented the applications explaining that they had been presented to the board at the April 16, 2003 and July 16, 2003 board meeting. She reported that at the July 16, 2003 meeting, that all of the reviewed financial statements were not included in the agenda materials, due to an oversight by office staff, and the certificate of insurance was about to expire. However, after review of the actual files, she did notice that all of the reviewed financial statements were in the application materials and the applicant had submitted a new certificate of insurance. Ms. Woodard advised the board that these applications were being brought back before the board for reconsideration and approval.

MOTION: Mr. Stroyan moved to approve the applications.

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

D. Wayne Reed Lynn - CP Applicant
TeamStaff, Inc. – GL 85

Ms. Woodard presented the application stating that the application appears to be complete. Mr. Lynn was present to answer questions should the board have any.

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

**E. Richard Myers Noritake – CP Applicant
AlphaStaff, Inc. – GL 49**

Ms. Woodard presented the application stating that the application appears to be complete.

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

VI. CHANGE OF OWNERSHIP APPLICATION

**A. NBR Group III, Inc., - EL 252
Name Change to SHR Southeast, Inc.**

Ms. Woodard presented the application stating that this was a request for a Change of Location also and that the application had been presented at the June 18, 2003 board meeting. At that meeting, the board requested for Mr. Danzig, Mr. Calvert Courtney, and Mr. DiRose to appear before the board to answer questions about the credibility of Mr. Danzig's financial status. Mr. Danzig and Mr. DiRose was present and was represented by Mr. Mike Miller.

Mr. Rodriguez informed the board that after further investigation, he found that Mr. Danzig was not involved in Hazar and was comfortable with the approval of the application.

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

VII. REVIEW AND CONSIDERATION OF EMPLOYEE LEASING COMPANY NAME CHANGES

**A. NBR Group I, Inc. – EL 257
TO: The Power P.E.O. of Florida I, Inc.**

Ms. Woodard presented the application indicating that the application appears to be complete.

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

**B. Plan Developers, Inc. – EL 229
TO: Sunwest PEO of Florida I, Inc.**

Ms. Woodard presented the application indicating that there were no complaints, however, the workers' compensation certificate expired May 16, 2003.

MOTION: Ms. Dockery moved to approve the application pending receipt of a current certificate of workers' compensation insurance.
SECOND: Mr. Stroyan seconded the motion and it passed unanimously.

VIII. REPORTS

A. Office of the Attorney General – John Rimes

Mr. John Rimes informed the board that the Joint Administrative Procedures Committee (JAPC) still has concerns with the language of the proposed rule "assumes the responsibility for the payment of wages" as it relates to the statutes. He advised the board that he would continue working on the rule.

He also asked if the board would consider changing Rule 61G7-5.0033, F.A.C., Consolidated and Combined Financial Statements, to reflect the acceptance of consolidated financial statements for stand alone employee leasing companies not just employee leasing group members.

Mr. Stroyan stated that a stand-alone company should be allowed to do the same thing as a group and vice-versa. He would like to see consistency.

Ms. Dockery suggested that FAPEO review the statutes and rules governing employee leasing companies for possible changes and makes a presentation of their proposed changes at the October 2003 meeting.

B. Executive Director – Juanita Chastain

Ms. Juanita Chastain informed the board that she was setting up newsletter schedules and wanted to know if the board would like to publish a newsletter.

The board agreed to publish a newsletter indicating that a newsletter would be a wonderful way to communicate with the licensees.

C. Office of the General Counsel – Eric Hurst

Mr. Eric Hurst mentioned the prosecuting attorney's report and the unlicensed activity report contained in the agenda materials. He also advised the Board that Ms. Laura Gaffney would like the names of persons who would be willing to serve as expert witnesses for the profession. The names of Mr. Bill Holt and Mr. H. Britt Landrum were suggested.

D. Chairperson – Celeste Dockery

Ms. Dockery stated that she had no report but expressed concern with the length of time that it is taking to process applications and for them to be presented to the board for review.

Mr. Jerry Wilson, Deputy Director of Professions, informed the board that the Central Intake Unit has implemented a tracking system to track applications received in the Department. He also informed the board that should they have questions or concerns about certain applications and the length of time that it is taking for the application to be processed, they should contact Ms. Woodard, Ms. Chastain, or him.

IX. NEW BUSINESS

None

X. OLD BUSINESS

None

XI. ADJOURNMENT

MOTION: Ms. Dockery moved to adjourn.

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

The meeting adjourned at 11:00 a.m.