

**BOARD OF EMPLOYEE LEASING COMPANIES
GENERAL BUSINESS MEETING MINUTES
RENAISSANCE ORLANDO HOTEL AIRPORT
5445 FORBES PLACE
ORLANDO, FLORIDA 32812
April 19, 2006
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
Kelly Lanza
Ryan S. Moore
Dale Maloney

MEMBERS ABSENT

Frank Crum Jr. (Excused)

STAFF PRESENT

Rick Morrison, Executive Director, DBPR
Krista B. Woodard, Government Analyst II, DBPR
Mary Ellen Clark, Board Counsel, Office of the Attorney General
Lois Tepper, Board Counsel, Office of the Attorney General
Eric Hurst, Assistant General Counsel, DBPR

OTHERS PRESENT

Michael Miller, Kunkel, Miller & Hament, P.A. and FAPEO
Timothy Tack, Kunkel, Miller & Hament, P.A.
Jerry Lancaster, Providence Property & Casualty
Kenneth Joekel
William Corey Keith
Barbara A. McAninch, Esquire
Amanda Brabham, Esquire

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

Ms. Dockery stated for the record that Mr. Crum was absent due to family medical reasons and would be excused from this meeting.

III. REVIEW AND APPROVAL OF THE FEBRUARY 16, 2006 GENERAL BUSINESS MEETING MINUTES

MOTION: Mr. Moore moved to approve the minutes.

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

IV. REVIEW AND APPROVAL OF THE MARCH 15, 2006, TELEPHONE CONFERENCE CALL MEETING MINUTES

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

V. DISCIPLINARY PROCEEDINGS – Office of the General Counsel

A. MOTION FOR WAIVER OF RIGHTS AND FINAL ORDER	<u>Case#</u>
1. Payroll Services Plus, Inc.	2005-030502

Mr. Hurst presented the case explaining it stems from violations involving failure to submit an audited annual financial statement for year 2004, failure to maintain positive working capital for quarter-ending December 2004, and failure to timely submit a quarterly report for quarter-ending March 2005.

Mr. Hurst stated the Respondent failed to file an election of rights form or file a response within 21 days required by Rule 28-106.111, Florida Administrative Code, thereby waiving their rights to a hearing.

Mr. Hurst stated the case is listed on the agenda as a Waiver proceeding; however, Mr. Mike Miller was present representing the Respondent. He further stated it is the board's discretion whether or not to proceed with a Waiver proceeding or to proceed as an Informal Hearing.

Ms. Clark asked Mr. Miller if his client disputed any of the material facts as alleged in the Administrative Complaint.

Mr. Miller answered in the affirmative.

Ms. Dockery asked why his clients did not respond within the 21-days allowed.

Mr. Miller stated he did not know and could not answer the question. He further stated it was true that his clients did not respond in a timely fashion.

Ms. Clark stated there is a provision in Chapter 455, F.S. that allows that if a Respondent appears before the board and disputes a fact, the matter is concluded and the Prosecutor refers the matter to the Division of Administrative Hearings. She further stated there is no need to discuss this case any further.

Mr. Miller stated before he makes the firm commitment that he is going to dispute the material fact, there is another issue that has to be addressed that he saw in the record.

Ms. Dockery asked if the issue was relevant to what Mr. Hurst presented.

Mr. Miller stated it was absolutely relevant.

Ms. Clark informed that the board is not a fact finder and cannot address any issues of fact.

Mr. Miller stated it was not an issue of fact, but an issue of law.

Ms. Clark stated if it is an issue of fact, why is an issue of law relevant at this time.

Mr. Miller stated the issue of law was relevant because apparently at the last in-person meeting, the board revoked the controlling person's license, and there is a company operating that does not have an active controlling person. He further stated the company does not have any employees in the state of Florida.

Ms. Clark stated it seems as if the Department should consider issuing an emergency suspension order in that matter because a employee leasing company currently operating without a controlling person and whether or not the revocation was proper, a final order has been entered and the appropriate remedy is to make an appeal.

Mr. Miller stated it may well be that what the Respondent do is add no employees in the state of Florida while there is no controlling person and applies for a new controlling person license.

Ms. Clark stated it sounds as if he would like to enter into negotiations with the Department. In lieu of an emergency suspension order, the Respondents would voluntarily limit their practice in Florida. She stated that is not an issue for the board, but between his client and the Department.

Mr. Miller asked if it was too late to reconsider the revocation of the controlling person's license.

Ms. Clark stated the reconsideration was not listed on the agenda and there is no way of knowing if the 30-days are tolled. She stated the 30-days is not a matter that can be waived. She further stated if the Final Order has been issued for over 30-days and no one appealed, the matter is closed.

Mr. Miller stated it will be necessary to enter into negotiations with the Department, because there is an employee leasing company operating that does not have a licensed controlling person associated with it. He further stated the company's license has been renewed.

Ms. Clark stated that is an issue that has to be discussed with the Department, not before the board.

Mr. Hurst stated he is willing to discuss the matter to find the best resolution.

B.	SETTLEMENT STIPULATIONS	<u>Case #</u>
1.	Southeast Drivers, et al	2004-041598
2.	Denny A. Wilson	2004-041612
3.	James F. Knight	2004-041604

(PCP: Crum and Lanza, April 20, 2005)

Mr. Eric Hurst presented the cases explaining they stem from violations involving failure to maintain accounting net worth and positive working capital, failure to notify the Board,

in writing, of a change of address of record, and failure to submit a quarterly report for the quarter-ending September 2004.

Mr. Hurst stated the Settlement Stipulation provides for an administrative fine of \$3750, costs of \$133.29, one-year of probation during which time the licensee will meet all legal obligations, the licensee will correct all violations prior to the adoption of the stipulation by the board, and joint and several liability among the licensees.

Mr. Hurst stated according to the board office, all violations have been corrected, all the filings have been made and the fine and costs have been paid.

Mr. Keith, Chief Accounting Officer of Southeast Drivers, addressed the board stating he wanted to ask for consolidation of the penalties for the three cases.

Ms. Clark asked if there was a signed settlement stipulation for the cases involved.

Mr. Hurst answered in the affirmative.

Ms. Clark informed Mr. Keith that his company has entered into a settlement with the department and asked if he was present to retract the signature on the stipulation.

Mr. Keith stated he was not present to retract the signature, but to make sure that the penalties were consolidated, based on an oral conversation with Mr. Hurst, and that the penalties involve a \$2500 fine and appropriate costs.

Mr. Hurst stated the administrative fine of \$3750 was agreed upon by Mr. Wilson, and that is the paperwork being presented to the board for consideration.

Ms. Clark stated it is appropriate for the board to act on the stipulation as presented. She further stated the only appropriate actions are to either accept the stipulation as presented or to reject the stipulation.

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

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

Mr. Hurst stated Ms. Lanza is recused due to her participation on the probable cause panel.

C. HEARING(S) NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT

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|---|--------------------|
| 1. Professional Leasing Alliance, Inc. | 2005-034216 |
| 2. Richard Langone | 2005-034221 |
| 3. Melinda Paulk | 2005-034229 |

(PCP: Lanza and Crum, February 16, 2006)

Mr. Eric Hurst presented the cases explaining they stem from violations involving failure to timely submit a quarterly report for December 2004, and failure to timely submit the annual financial report for 2004.

Mr. Hurst stated Ms. Lanza is recused due to her participation on the probable cause panel.

MOTION: Ms. Dockery moved to adopt the allegations of fact in the administrative complaint as the findings of fact of the board.

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

Ms. Barbara McAninch was present and represented the Respondents stating the company purchased the license in 1998 and has never operated in Florida nor have there been any employees in the state of Florida. She stated the company has maintained the appropriate workers' compensation insurance and financial status.

Ms. McAninch stated last year the company asked to voluntarily relinquish the license. She stated it is the controlling persons' desires to terminate all licenses and to return the licenses to the state. She stated she was told that she had to appear before the board to relinquish the licenses; however, she has reviewed the Statutes relating to employee leasing and did not find such language.

Ms. Clark advised that at the time the relinquishments were presented to the board, a complaint had already been filed for being out of compliance. She stated there has to be a resolution of the pending disciplinary matters. She further stated if there were no pending disciplinary matters, of course the board would accept the relinquishments without an appearance.

Ms. McAninch stated she would like to get the matters resolved and for the state to accept relinquishment of the licenses.

Mr. Hurst stated the Department's recommendation for penalties provides for an administrative fine of \$500 per count for a total of \$1000, costs of \$151.05, and voluntary relinquishment of all licenses.

Ms. McAninch stated she would agree to those terms.

Mr. Hurst stated the mitigating circumstance to the reduction in the fine is due to the fact that the Respondents will no longer operate in the state of Florida.

Ms. McAninch represented that should any pending quarterly reports be found with any deficiencies, the board will retain jurisdiction if that proves to be the case.

MOTION: Mr. Moore moved to accept the conclusions of law.

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

MOTION: Mr. Rodriguez moved to impose an administrative fine of \$500 per count for a total of \$1000, costs of \$151.05, and voluntary relinquishment of all licenses.

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

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

**A. Business Personnel Solutions, Inc.
George C. Norton, Controlling Person Applicant**

Ms. Woodard presented the applications stating they were presented to the board at the February 16, 2006 and March 15, 2006 meetings. She stated at the last meeting, the board tabled discussion of the applications until clarification of the workers' compensation policy provided by FWCJUA could be provided.

Ms. Woodard informed that the normal business letter from FWCJUA was provided in the agenda materials and stated that Mr. Leo Canton of the FWCJUA offered his apologies for the confusion with the previous policy. Ms. Woodard stated Mr. Canton stated "he put the cart before the horse by issuing the policy before being approved by the board."

Ms. Woodard presented the controlling person application of Mr. Norton stating that all exhibits were submitted and complete and the only outstanding item is the criminal history report from the Federal Bureau of Investigations (FBI) due to resubmission of the fingerprint card.

Ms. Dockery asked if Mr. Norton or a representative was present.

Ms. Amanda Brabham was present and represented the applicants stating should anything derogatory be revealed on the criminal history report that Mr. Norton 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 criminal history report that Mr. Norton would subject himself to the jurisdiction of the board.
SECOND: Mr. Rodriguez seconded the motion and it passed unanimously.

**B. Tampa Service Company, Inc.
Kenneth Joekel, Controlling Person Applicant**

Ms. Woodard presented the company application stating that all exhibits were submitted and complete and that workers' compensation was confirmed by the Department of Financial Services (DFS) on January 1, 2006.

Ms. Woodard presented the controlling person application of Mr. Joekel stating that all exhibits were submitted and complete and the criminal history reports from the Florida Department of Law Enforcement (FDLE) and the FBI were clear.

Ms. Woodard informed that the civil case listed on Mr. Joekel's credit report has been settled and a copy of the Final Summary Judgment was included in the agenda materials.

Ms. Woodard also advised that Mr. Joekel was previously licensed as a controlling person and relinquished that license in 1998. She further stated there was a prior case against Mr. Joekel for late filings wherein the case was closed for no violation.

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

Mr. Rodriguez asked Mr. Joekel to provide a brief history into the company of Fidelity Staffing, Inc.

Mr. Miller stated the problems with Fidelity Staffing, Inc. occurred after Mr. Joekel left the company, but Mr. Joekel could provide more insight, if required.

Mr. Joekel was sworn in by the court reporter and addressed the board stating he was the owner and licensed controlling person of Fidelity Staffing, Inc. He stated sold the company as an asset sale, and surrendered his license after the sale. He stated he had no further involvement with Fidelity after the sale.

Mr. Rodriguez asked if he knew what happened to Fidelity after he left.

Mr. Joekel stated he was no longer involved with the company. After all assets were sold, he surrendered his license and ended his relationship with the company.

Mr. Rodriguez asked once again if he had any knowledge of what happened to the company after the sale.

Mr. Joekel once again stated he had no involvement after the sale. He stated he completely divested himself of Fidelity Staffing, Inc.

Mr. Rodriguez stated the reason for asking the questions is to establish the condition of the company before and after the sale. He asked to whom was the company sold.

Mr. Joekel stated he did not remember.

Mr. Miller stated it was not a matter of remembering, but that he completely divested himself of the company after the sale.

Mr. Rodriguez asked once again to whom was the company sold.

Mr. Joekel stated, "If he remembers correctly, the company was sold as an asset sale to Courtney Barron."

There being no further discussion, the following motion was made.

MOTION: Ms. Dockery moved to approve the applications.

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

C. Anthony Danon, Controlling Person Applicant
Strategic Outsourcing, Inc. – GL 58
SOI-23 of FL, Inc. – GM 198
FLSUB-62, Inc. – GM 303
FLSUB-65, Inc. – GM 304
FLSUB-67, Inc. – GM 305

Ms. Woodard presented the application stating all exhibits were submitted and complete. She further stated the criminal history reports from the FDLE and FBI were returned clear.

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

D. Elise Batsel Lynn, Controlling Person Applicant
Ameristaff III, Inc. – GL 45
Ameristaff IV, Inc. dba Crum Services – GM 194
Ameristaff of Florida, Inc. – GM 28
Crum Resources VI, Inc. – GM 40
Crum Staffing, Inc. – GM 19
Crum Staffing II, Inc. – GL 100
Crum Resources II, Inc. – GM 235

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

Ms. Woodard informed that Ms. Lynn did submit a letter stating should anything derogatory be revealed on the criminal history reports that she would subject herself to the jurisdiction of the board.

Mr. Miller stated he would make the representation that should anything derogatory be revealed on the criminal history reports that Ms. Lynn would subject herself to the jurisdiction of the board.

MOTION: Mr. Moore moved to approve the application with the condition that should anything derogatory be revealed on the criminal history reports that Ms. Lynn would subject herself to the jurisdiction of the board.
SECOND: Mr. Rodriguez seconded the motion and it passed unanimously.

E. Harlan Schafir, Controlling Person Applicant
Fortune Staffing, Inc. – EL 340

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

Mr. Miller represented the applicant stating should anything derogatory be revealed on the criminal history reports that Mr. Schafir would subject himself to the jurisdiction of the board.

MOTION: Mr. Rodriguez moved to approve the application with the condition that should anything derogatory be revealed on the criminal history reports that Ms. Lynn would subject herself to the jurisdiction of the board.
SECOND: Mr. Moore seconded the motion and it passed unanimously.

VII. REVIEW AND CONSIDERATION OF TERMINATION OF EMPLOYEE LEASING COMPANY OPERATIONS

A. Magellan Human Resources, Inc. – EL 147

Ms. Woodard presented the termination stating there are no open pending complaints against the licensee.

MOTION: Ms. Dockery moved to accept the termination.

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

VIII. REVIEW AND CONSIDERATION OF CONTROLLING PERSON RELINQUISHMENTS

A. Joseph C. Dominguez – CO 371

Accountfirst Insurance Services, Inc. – EL 303

HHG I, Inc. – EL 304

SC of Florida II, Inc. – EL 260

Staffing Concepts National, Inc. – EL 127

Venture Resources Group, LLC – EL 138

Ms. Woodard presented the relinquishment stating that there were no open or pending complaints against the licensee.

MOTION: Mr. Moore moved to accept the license relinquishment.

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

B. James K. Murray, III – CO 453

Advantech Solutions I, LLC – GL 66

Advantech Solutions II, LLC – GM 136

Advantech Solutions III, LLC – GM 256

Advantech Solutions IV, LLC – GM 211

Advantech Solutions VII, LLC – GM 212

Taltech Resources, LLC – EL 286

Ms. Woodard presented the relinquishment stating that there were no open or pending complaints against the licensee.

MOTION: Mr. Moore moved to accept the relinquishment.

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

IX. REPORTS

A. Office of the Attorney General – Mary Ellen Clark

Ms. Clark stated at the rules discussion meeting on April 18, 2006, the board discussed the rules report included in the agenda material, and there was no further report regarding rules.

Ms Clark informed the board that based on other work assignments she will be transferring the responsibility for board counsel of this board to Ms. Tepper, who was in attendance.

Ms. Clark further stated she will be attending the May 17, 2006 and June 21, 2006 meeting to ensure a smooth transition.

Ms. Dockery thanked Ms. Clark for her service to the board and at the next in-person meeting, she will be thanked more properly.

Ms. Dockery welcomed Ms. Tepper to the board.

B. Executive Director – Richard Morrison

Mr. Morrison mentioned the Operating and Unlicensed Activity Financial Reports contained in the agenda materials. He stated that the board's administrative office costs increased due to additional board meetings and reconfiguration of the boards.

He also mentioned the inclusion of the Monthly Enforcement Report in the materials. He informed that the report gives a tally of the complaints in the Department and their status.

Mr. Morrison informed that there is now an unlicensed activity hotline and provided the telephone number to the hotline.

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

No Report

X. NEW BUSINESS

A. Draft letter to Mr. Claude Mueller, Office of Insurance Regulation

Mr. Moore stated at the last meeting an issue arose about Mr. Sumner's verbal presentation of consent orders issued to insurance carriers, and what is considered "new business", and whether or not standard market means new business as an employee leasing company adding new clients.

Mr. Moore informed that he drafted a letter, on behalf of the board, to the Office of Insurance Regulations (OIR) in response to Mr. Sumner's presentation to address the board's position that insurance carriers also cater to the PEO industry and for OIR to be cognizant of their definition of "new business" in regards to PEOs.

After further discussion, the following motion was made.

MOTION: Ms. Lanza moved to approve the letter, with corrections, for the letter to be placed on board letterhead, and for Ms. Dockery to sign on behalf of the board.
SECOND: Mr. Rodriguez seconded the motion and it passed unanimously.

B. Proposed 2006/2007 Board Meeting Schedule

Ms. Clark asked that the proposed schedule be placed on the May telephone conference call schedule to allow Ms. Tepper time to review.

Ms. Lanza asked if would be possible to switch the November 2006 telephone conference call meeting to an in-person meeting and the December 2006 meeting to a telephone conference call meeting due to the holidays.

The board agreed to switch the November 2006 meeting to an in-person meeting and the December 2006 meeting to a telephone conference call meeting.

Ms. Woodard re-iterated the importance of approving the meeting schedule as soon as possible to allow time for hotel reservations.

XI. OLD BUSINESS

None

XII. ADJOURNMENT

MOTION: Ms. Dockery moved to adjourn.
SECOND: Ms. Lanza seconded the motion and it passed unanimously.

The meeting adjourned at 11:13 a.m.