

**BOARD OF EMPLOYEE LEASING COMPANIES
GENERAL BUSINESS MEETING MINUTES
THE EMBASSY SUITES JACKSONVILLE - BAYMEADOWS
9300 BAYMEADOWS ROAD
JACKSONVILLE, FLORIDA 32256**

**SEPTEMBER 19-20, 2012
11:00 A.M.**

I. CALL TO ORDER

The meeting was called to order at approximately 11:26 a.m. EST by Mr. John Jones, Board Chair.

II. ROLL CALL

MEMBERS PRESENT

John Jones, Chair
Abram Finkelstein, Vice Chair
Celeste Dockery

MEMBER ABSENT

Eric Arfons (*excused*)

STAFF PRESENT

Rick Morrison, Executive Director, DBPR
Krista B. Woodard, Government Analyst II, DBPR
Mary Ellen Clark, Board Counsel, Office of Attorney General
Eric Hurst, Chief Attorney, Professions, DBPR
Jerry Wilson, Director, Division of Regulation

OTHERS PRESENT

Loretta D. McDonald, Court Reporter, Statewide Reporting Service
Mark Mark, Department of Financial Services
Michael Miller, Kunkel, Miller & Hament, P.A. and FAPEO
Timothy Tack, Kunkel, Miller & Hament, P.A.
Torben Madson, Kunkel, Miller & Hament, P.A.
Tim Tucker, NAPEO
Jay Morgan, ESAC
Tricia Russo, ADP Totalsource
Melody Medina

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

III. THE PLEDGE OF ALLEGIANCE

Mr. Jones led all in the Pledge of Allegiance.

IV. REVIEW AND APPROVAL OF THE JULY 25, 2012 TELEPHONE CONFERENCE CALL MEETING MINUTES

MOTION: Ms. Dockery moved to approve the minutes.

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

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

A. AlphaStaff Holdings, Inc. (GL Applicant)

B. Alpha NSPEO, Inc. (GM Applicant)

C. Alpha NJ1, Inc. (GM Applicant)

Neal Bibeau, CO 993

Robert Smolinski, CO 801

Mr. Jones presented the group leader and group member applications.

MOTION: Mr. Finkelstein moved to approve the applications.

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

D. Convergence Employee Leasing III, Inc. (EL Applicant)

Jacob Nobles, CO 531

Mr. Jones presented the company application of Convergence Employee Leasing III, Inc.

Ms. Dockery advised that the IRS 8821 form needed to be corrected to include the corporate tax for the company.

MOTION: Ms. Dockery moved to approve the application pending receipt of a corrected IRS 8821 form to include corporate tax.

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

E. CoStaff National Services, Inc. (EL Applicant)

Michael R. Bulgarelli, Controlling Person Applicant

Mr. Jones presented the company application of CoStaff National Services, Inc. and the controlling person application of Mr. Bulgarelli.

MOTION: Mr. Finkelstein moved to approve the applications.

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

F. DPG Employee Leasing, LLC (EL Applicant)

Melody Medina, Controlling Person Applicant

Mr. Jones presented the company application of DPG Employee Leasing, LLC and the controlling person application of Ms. Medina.

MOTION: Ms. Dockery moved to approve the applications.

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

**G. Emergent HR, Inc. (EL Applicant) (Currently DM 79)
Michael Todd Fagan, Controlling Person Applicant**

Mr. Jones presented the company application of Emergent HR, Inc. and the controlling person application of Mr. Fagan.

Mr. Finkelstein stated that the applicant needs to submit cross guarantees between the parent company and the applicant and the certificate of insurance needs to be corrected to state that it covers leased employees in the state of Florida.

MOTION: Mr. Finkelstein moved to approve the applications pending receipt of cross guarantees between the parent company and the applicant and submission of a corrected certificate of insurance that states that it covers leased employees in the state of Florida.

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

**H. Employer's Alliance VII, LLC (GL Applicant)
I. Employer's Alliance VIII, LLC (GM Applicant)
J. Employer's Alliance IX, LLC (GM Applicant)
Norek Newman, CO 718**

Mr. Jones presented the group leader and group member applications.

Ms. Clark advised that she did not receive copies of all the client service agreements for review and approval.

Ms. Woodard stated she would send copies of all of the client service agreements to Ms. Clark for review.

Ms. Dockery advised that the IRS 8821 form needed to be corrected to include the corporate tax for the company and the certificate of insurance needs to state that it covers leased employees in the state of Florida.

MOTION: Mr. Finkelstein moved to approve the applications pending approval of the client service agreements by Ms. Clark, pending receipt of a corrected IRS 8821 form to include corporate tax and submission of a corrected certificate of insurance that states that it covers leased employees in the state of Florida.

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

**K. Modern Payroll Services III, Inc. (GM Applicant)
L. Modern Payroll Services IV, Inc. (GM Applicant)
Mark Lettelleir, CO 306**

Mr. Jones presented the group member applications.

Ms. Dockery advised that the IRS 8821 form needed to be corrected to include the year 2012 and the certificate of insurance needs to state that it covers leased employees in the state of Florida.

MOTION: Mr. Finkelstein moved to approve the applications pending receipt of a corrected IRS 8821 form to include the year 2012 and submission of a corrected certificate of insurance that states that it covers leased employees in the state of Florida.
SECOND: Ms. Dockery seconded the motion and it passed unanimously.

M. Samuel Rossa, Controlling Person Applicant
AlphaStaff, Inc. – GL 49
Alpha FLA 6, Inc. – GM 292
AlphaStaff 3, Inc. – GM 234
AlphaStaff Systems V, Inc. – GM 238
Equity Leasing-Finance II, Inc. – GM 239

Mr. Jones presented the controlling person application of Samuel Rossa.

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

VI. REVIEW AND CONSIDERATION OF DE MINIMIS EXEMPTION AND REGISTRATION APPLICATION

A. HL-SER, Inc.
(John P. Bower, Owner)

Mr. Jones presented the company application of HL-SER, Inc.

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

VII. REVIEW AND CONSIDERATION OF EMPLOYEE LEASING COMPANY NAME CHANGES

A. Genesis Consolidated Services, Inc. – DM 34
TO: Genesis HR Solutions, Inc.

Mr. Jones presented the name change application of Genesis Consolidated Services, Inc.

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

VIII. REVIEW AND CONSIDERATION OF CONTROLLING PERSON RELINQUISHMENTS

A. Lisa M. Lickert, CO 947
Employee Management Services III, Inc. – EL 166

Mr. Jones presented the controlling person relinquishment of Lisa M. Lickert

MOTION: Ms. Dockery moved to accept the relinquishment.
SECOND: Mr. Jones seconded the motion and it passed unanimously.

**B. Manuel Rivero, CO 776
Airstream Services Corp. – EL 341**

Mr. Jones presented the controlling person relinquishment of Manuel Rivero.

MOTION: Ms. Dockery moved to accept the relinquishment.

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

IX. DISCIPLINARY PROCEEDINGS – Office of the General Counsel

Mr. Hurst stated for the record that all of the Settlement Stipulations listed on the agenda would be tabled to the next in-person meeting due to lack of a quorum.

A. SETTLEMENT STIPULATIONS

1. **STS Group, Inc.**
Case Number: 2011-045726
PCP: Dockery and Reeves – March 22, 2012
2. **Robert Cassera**
Case Number: 2011-057806
PCP: Dockery and Reeves – March 22, 2012
3. **Select PEO, Inc.**
Case Number: 2011-045732
PCP: Dockery and Seltzer – May 16, 2012
4. **David Sorensen**
Case Number: 2011-057847
PCP: Dockery and Seltzer – May 16, 2012
5. **Paul Sorensen**
Case Number: 2011-057848
PCP: Dockery and Seltzer – May 16, 2012
6. **21st Century Concepts, LLC**
Case Number: 2011-058406
PCP: Dockery and Seltzer – May 16, 2012
7. **Administrative Concepts 2010, Inc.**
Case Number: 2011-058407
PCP: Dockery and Seltzer – May 16, 2012
8. **Simple Employer Solutions**
Case Number: 2011-045744
PCP: Dockery and Seltzer – May 16, 2012
9. **Sarah Peel**
Case Number: 2011-058399
PCP: Dockery and Seltzer – May 16, 2012
10. **Brendan R. Broomell**
Case Number: 2011-058397
PCP: Dockery and Seltzer – May 16, 2012

B. VOLUNTARY RELINQUISHMENT OF LICENSE

Mr. Hurst stated that no one is recused from these cases because they have not been before the probable cause panel. He stated that in lieu of the probable cause proceedings, the Respondents have executed a Voluntary Relinquishment of Licensure.

1. **Omega Business Solutions, Inc.**
Case Number: 2011-045740
PCP: N/A
2. **Omega Business Solutions II, Inc.**
Case Number: 2011-057842
PCP: N/A
3. **Omega Business Solutions V, Inc.**
Case Number: 2011-057844
PCP: N/A
4. **Marvin Ralph Dial**
Case Number: 2011-057838
PCP: N/A
5. **Business Personnel Solutions, Inc.**
Case Number: 2011-045391
PCP: N/A
6. **George C. Norton III**
Case Number: 2011-045383
PCP: N/A
7. **Eric G. Huff**
Case Number: 2011-045531
PCP: N/A
8. **Alberto Hernandez**
Case Number: 2011-045538
PCP: N/A

Mr. Hurst presented all of the cases for Voluntary Relinquishment of licenses. He advised that all of the terms of the cases are the same in that they are giving up their licenses with no rights of re-application.

MOTION: Mr. Finkelstein moved to accept all of the voluntary relinquishments and for the inclusion of the investigative report to be attached to the Final Order.

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

The meeting recessed for lunch at 12:30 p.m.

The meeting re-adjourned at 2:00 p.m.

X. REPORTS

A. Office of the General Counsel – Eric Hurst

1. Prosecuting Attorney's Report

Mr. Hurst reported that the prosecuting attorney's report was included in the agenda materials and he also provided an updated/current report in the board members' folders.

Ms. Dockery asked if there was a way to find out how many total complaints there are pending.

Mr. Jerry Wilson informed that he currently has about 40 cases going through the investigative process. He advised that his staff was currently reviewing the second quarter reports, which were due September 15th and that they have completed the review of the first quarter.

Ms. Clark advised that Chapter 455, F.S. states that the department will report on all cases more than a year old. She asked Mr. Wilson if it was possible that when this report is made that it has all cases listed not just the ones received in legal.

Mr. Wilson stated he would be able to provide that type of report. He asked if the board wanted a report for the phone meetings or just in-person meetings.

The board asked that he provide the report for the in-person meetings.

B. Chairperson – John Jones

None

C. Executive Director – Richard Morrison

Mr. Morrison gave a synopsis of the following reports:

- The Operating and Unlicensed Activity Accounts ended June 30, 2012
- Monthly Enforcement

XI. QUARTERLY REPORT RULE DISCUSSION BY JERRY WILSON

A. Rule 61G7-10.001, FAC – Quarterly Reporting Regarding Working Capital Requirements (Examination of Financial Records; Verification of Compliance)

B. Rule 61G7-10.003, FAC – On-Site Investigations

C. ESAC Facts for State Regulators

Ms. Clark informed that included in the agenda materials was some draft language prepared by Ms. Dockery, Mr. Wilson, and herself for Rule 61G7-10.001, F.A.C. and Rule 61G7-10.003, F.A.C.

Ms. Dockery stated she would like to thank Mr. Jay Morgan, General Counsel for ESAC, for his work and input on this project.

Mr. Wilson addressed the board stating back in March 2012 he came before the board with the possibility of performing audits in lieu of quarterly report submissions. He stated at the May meeting in Sarasota, another discussion was had about the audit process and during that meeting, the board agreed to open up the rule and asked for him to come back with some draft language.

Mr. Wilson stated that Mr. Morgan came to visit him and told him about his organization and what they do. He also stated he travelled to Sarasota to visit with Ms. Dockery to discuss the future and the way the employee leasing companies are being scrutinized.

Mr. Wilson stated he spoke with a representative at the IRS and was informed that the department cannot tap into the IRS's website unless they are a taxing authority. He further stated that he knows that he is not going to be able to look up a company's record to see if they have paid their taxes.

Mr. Wilson introduced the draft language to Rule 61G7-10.001, F.A.C. He stated there are a lot of similarities to the old rule. He stated that he thinks that the department is going to have to continue with the quarterly reporting because the industry is ever changing and as regulators he would not want to wait 100-200 days to find a company not in compliance.

Mr. Wilson stated the language provides for submission of information on a quarterly basis and mirrors the language in the Statutes. He stated the quarterly report form that is currently being utilized will still exist because the information listed on it is critical.

He stated they would blend the quarterly report information with the proactive work of looking up unemployment taxes and workers compensation. He further stated that the new language "beefs up" the disciplinary matters such as not responding to the department for information and giving false and misleading information.

Mr. Wilson stated that they also implemented that any employee leasing company that is certified by ESAC satisfies the quarterly report requirement.

Mr. Wilson stated that the quarterly report is referenced in other rules and that they had to look at and change other rules too. He mentioned the draft language to Rule 61G7-10.003, F.A.C. for On-Site Investigations. He stated this rule allows investigators or a contracted CPA to go on site for an investigation. He stated that he will have criteria for when a CPA will be utilized.

Mr. Finkelstein asked if the industry had a position on the rules being discussed.

Mr. Miller stated that on behalf of the industry/ FAPEO, they would be supportive, but would like clarification about the notification to licensees before a complaint is filed and the timeframe on days for submissions after the end of a quarter.

Ms. Clark stated that the rule states "75 days of the end of each calendar quarter."

Mr. Wilson mentioned that the board has a rule and authority for issuances for Notice of Non-Compliance.

Mr. Miller stated that rule would need to be expanded to incorporate this matter because it is very limited in its authority as it stands.

Mr. Finkelstein stated that it looks as if the rule still has the old requirements and additional requirements which would include audits by the department. He stated the audit may be a 30 minute process for the investigator, but for the person being audited it is a much more intensive process. He further stated he was concerned about a process that was suppose to streamline a process, but seems to have layered on to what was already in existence and not getting any better results.

Mr. Miller stated that one of the concerns of FAPEO was that they did not want to see the board ceding out the authority and penalties to the Department.

Mr. Finkelstein stated it seems as if they have taken what has been a Board of Employee Leasing Companies function and ceded it to the Department in addition to taking what we were doing and expanded upon it.

Ms. Clark stated she would like to comment on the conversations of functions being ceded to the department. She stated she thinks the board may be getting that impression because in the Spring there was a discussion of going from quarterly report submissions to a proactive audit being done by DBPR.

Ms. Clark stated that the information being presented today is not ceding any authority from one place to another at all. She advised that there is no change to the process being recommended today.

Mr. Wilson stated that the Division of Regulation was a "sister" to the board and would continue to support the board and its staff. He stated that he would be devoting two people to work on this new process, one with a Finance degree, and they are going to examine these records the day that they come in.

Ms. Clark stated that for the record it was never her opinion that there was no statutory authority for the rule. She stated that the board and the department decided to examine this process and the examination began to talk about statutory authority and also about over the years the way that the board staff has been structured. She stated that the board was left with insufficient resources to accomplish the task that were assigned to them through this board's regulatory process.

Ms. Clark stated the language being presented is language that she thinks that she could win with not that she didn't think that she could win before if presented with a rule challenge. She further stated that she has never taken the position that there wasn't statutory authority and she thinks that so long as the board is re-examining the rule and the process, why not take the opportunity to make the language even stronger than it was.

Mr. Finkelstein asked if the industry had a position on the ESAC provision of the rule.

Mr. Miller stated he didn't think that they would have an issue with the ESAC provision of the rule.

The meeting recessed for a break at 3:15 p.m.

The meeting re-adjourned at 3:30 p.m.

Ms. Clark did a re-cap of the discussion of the draft language and discussion for Rules 61G7-10.001 and 61G7-10.003, F.A.C.

Mr. Jay Morgan introduced himself to the board and gave a synopsis of ESAC and what services his organization can offer the board.

A lengthy discussion ensued and Mr. Finkelstein asked the question of what happens if a company fails to maintain their accreditation with ESAC.

Ms. Clark advised that Florida cannot prosecute for failure to meet the financial requirements of the law based on what ESAC says. She stated that would take a statutory change. She stated if there is a problem with an ESAC accreditation, there is nothing in the board's statute that would allow the board to rely on that they are saying for prosecution.

Ms. Clark stated the board's best recourse is to retain the annual financial statement submissions, which is the most critical of all. She further stated if there is going to be a financial problem with an employee leasing company; it would show up there and the annual financials would be the most reliable piece of information.

Ms. Clark stated that if ESAC notified the department that a company has lost their accreditation, that would result in the employee leasing company in Florida to have to start to submit quarterly reports again and the department would be on notice to take a closer look at that company's financial statements.

Ms. Clark reiterated that because ESAC has stated that a company has lost its accreditation or has a problem that the board cannot prosecute on that basis. The board would have to conduct their own independent investigation.

After further discussion, the following motions were made.

61G7-10.001 Examination of Financial Records; Verification of Compliance Quarterly Reporting Regarding Working Capital Requirements.

(1) In accordance with Sections 468.525(3)(d) and 468.535, F.S., the department may make investigations, audits or reviews of each individual or company licensed pursuant to Section 468.526(1), F.S., to determine whether it has violated or is in danger of violating chapter 468, Part XI; chapter 455; or any rule of the board or department. An examination of each company's balance sheet and income statement will be made each quarter to verify positive working capital and accounting net worth. In order to determine that each employee leasing company has maintained net worth and positive working capital, each employee leasing company shall submit a balance sheet and income statement every quarter to the department for verification. Each employee leasing company shall also submit a statement to the Board of Employee Leasing Companies affirming that it is in compliance with Section 468.529(4), F.S., in that it has adequate reserves to pay, when due, all payroll and payroll-related taxes, workers compensation and health related premiums, and amounts due under any plan of self insurance. This statement shall be made on Form DBPR EL 4504, "Quarterly Report Form," effective 5/2011, which is hereby incorporated by reference and available at <http://www.myfloridalicense.com/dbpr/pro/emplo/forms.html>, and filed with a copy of the company's workers' compensation certificate of insurance in effect for the current quarter.

(2) In furtherance of its verifications of compliance, investigations, audits or reviews under Section 468.535, F.S., the department may, as frequently as deemed necessary, request applicable compliance information from licensees. Failure to respond to the department's request for information shall constitute grounds for disciplinary action.

(3) Providing false or misleading information to the department shall constitute grounds for disciplinary action.

(4) An employee leasing company may satisfy the requirements of this rule by being accredited by the Employer Services Assurance Corporation (ESAC).

~~Each employee leasing company shall submit, not later than 75 days after the end of each calendar quarter, a statement to the Board of Employee Leasing Companies affirming that it is in compliance with Section 468.525(3)(d), F.S., in that it is maintaining positive working capital and accounting net worth, and has adequate reserves to pay, when due, all payroll taxes, workers' compensation and health insurance premiums, and amounts due under any plan of self-insurance or partial self-insurance. This statement shall be made on Form DBPR-EL 4504 entitled "Quarterly Report Form," effective 03-18-04, which shall be filed with a copy of the company's workers' compensation certificate of insurance in effect for the current quarter including confirmation from the insurance carrier that the Board will receive at least 30 days notification of cancellation of such insurance, and the company's balance sheet and income statement for the quarter. The employee leasing company may utilize the guaranty method set forth in Rule 61G7-5.005, F.A.C., to offset any deficiency. The form, together with its instructions, are incorporated herein by reference and may be obtained by contacting the Board's office at 1940 North Monroe Street, Tallahassee, Florida 32399-0767; or its Website at www.myflorida.com. An employee leasing company may satisfy the requirements of this rule by submitting a certified true copy of its current National Associate of Professional Employer Organizations quarterly report and copies of its balance sheet and income statement for the quarter.~~

Rulemaking Specific Authority 468.522, 468.525(3)(d), 468.529(4) 468.529(1) FS. Law Implemented 468.525(3)(d), 468.529(4), 468.535 468.529(4) FS. History--New 8-12-92, Amended 6-1-93, Formerly 21EE-10.001, Amended 5-8-94, 12-19-94, 3-1-05,_____.

MOTION: Mr. Finkelstein moved to approve the draft language to Rule 61G7-10.001, F.A.C. as amended and to include the language of "All required submissions shall be made in furtherance of a licensure renewal application and shall be submitted to the department within 75 days of the end of each calendar quarter."
SECOND: Mr. Jones seconded the motion and it passed unanimously.

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

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

MOTION: Mr. Jones moved that the proposed amendments to Rule 61G7-10.001, F.A.C. would not have an adverse impact on small business.
SECOND: Mr. Finkelstein 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: Mr. Jones 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 responses to the questions, a SERC would not be needed.

61G7-10.003 On-Site Investigations.

(1) ~~In aid of its obligation under Section 468.535, F.S., to investigate, audit, or review all licenses to determine if such licenses are in compliance with or are in violation of the provisions of Section 468.525(3)(d), F.S., the Department shall may initiate on-site quarterly inspections of all licensees and perform audits of the same.~~

(2) The Department may also conduct random site checks to make sure employee leasing companies are in compliance with Section 468.530, F.S., as it relates to licensing and postings.

~~The Department will, however, in lieu of an on-site investigation, audit, or review, accept submission of Quarterly Reports as defined in Rule 61G7-10.001, F.A.C., so long as the reports are submitted within the time frames and manner set out therein and so long as the reports submitted show the licensee is in compliance with the provisions of Part XI of Chapter 468, F.S. Reports which fail to evidence compliance or which are untimely filed will form the basis for disciplinary action or a full investigation. In order to take advantage of this option each licensee must sign Form DBPR EL 4515 entitled Quarterly Report Agreement, incorporated herein by reference and effective 03-18-04, in which the licensee agrees to abide by the provisions of this rule and Rule 61G7-10.001, F.A.C. Submission of Quarterly Reports in compliance with this rule shall be considered as compliance with the provisions of Rule 61G7-10.001, F.A.C. If, however, a licensee determines to subject itself to on-site inspections then the Quarterly Reports required under Rule 61G7-10.001, F.A.C., shall still be filed as required by the rule.~~

(3) No change.

Rulemaking Specific Authority 468.522 FS. Law Implemented 468.525(3)(d), 468.535 FS. History—New 5-21-00, Amended 3-1-05,_____.

MOTION: Mr. Finkelstein moved to approve the draft language to Rule 61G7-10.003, F.A.C. as presented.

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

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

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

MOTION: Mr. Jones moved that the proposed amendments to Rule 61G7-10.003, F.A.C. would not have an adverse impact on small business.

SECOND: Mr. Finkelstein 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: Mr. Jones 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 responses to the questions, a SERC would not be needed.

Mr. Hurst asked when the board would like to implement the new requirements for reasons of prosecution and investigation.

The board stated that they could wait until the third quarterly report submissions to implement the new requirements.

X. REPORTS (cont.)

D. Office of the Attorney General – Mary Ellen Clark

Ms. Clark advised the board that the rules report was included in the agenda materials.

Ms. Clark introduced the draft language to Rule 61G7-10.002, F.A.C.

61G7-10.002 Reporting of Change of Status Required; Effect on Licensees; Change of Licensee Name.

(1) To enable the Board and the Department to enforce more effectively the prohibition against the unlicensed practice of employee leasing, contained in Section 468.526, F.S., and to enforce other provisions of Part XI of Chapter 468, F.S., licensees shall apply for approval or notify the Board in writing, as appropriate, if the licensee experiences any changes in status listed in subsection (2). Form DBPR ELC 6, effective 08/12 entitled Application for Certificate of Approval for/Notification of Change of Ownership, is hereby incorporated by reference and available at www.myfloridalicense.com/dbpr/pro/emplo/forms.html.

(2) Licensees experiencing a change in status listed below in the left column shall file or do what is listed in the corresponding right column:

CHANGE IN STATUS

NEEDED ACTION BY COMPANY, GROUP, OR CONTROLLING PERSON

(a) through (c) No change.

(d) Purchase or acquisition of control in which purchasing employee leasing company maintains licensed controlling person from either the purchasing or purchased employee leasing company. Sale or transfer of company stock which causes a change in controlling person(s) or other changes in the information contained in the original application

Within 30 days of purchase or acquisition of control, Form DBPR EL 4510, entitled Application for Licensure As An Employee Leasing Company Controlling Person, effective 08/12-03-18-04 and DBPR ELC 6 EL 4514, entitled Application for Certificate of Approval for/Notification of Change of Ownership, effective 03-18-04, where applicable. The above forms are incorporated by reference and available from the Board office or from the website at www.myflorida.com and, where applicable, Form DBPR ELC 1, entitled Application for Licensure as an Employee Leasing Company Controlling Person and Form DBPR 4512, entitled Historical Sketch

(e) Purchase or acquisition of control in which purchasing employee leasing company does not maintain licensed controlling person from either the purchasing or purchased employee leasing company. Sale or transfer of company stock.

Prior to the purchase or acquisition of control, DBPR ELC 6, entitled Application for Certificate of Approval for/Notification of Change of Ownership application EL 4511, which causes a change in control and, where applicable, Form DBPR ELC 1, entitled Application for Licensure as an Employee Leasing Company Controlling Person controlling person license application for each new controlling person, DBPR EL 4510, and Form DBPR 4512, entitled Historical Sketch form, DBPR EL 4512, where applicable.

(f) Sale or transfer of a majority of business assets

Application for Certificate of Approval for Change of Ownership EL 4511, new company application if buyer not already licensed, and fee from buyer — old license does not transfer but remains with seller; unless already licensed, new controlling person license application and fee for each new controlling person.

(f)(g) No change.

(g)(h) No change.

(h)(i) Controlling person resigns from Company A and is employed by Company B as controlling person

notification to Board from Company A and controlling person; notification to Board from Company B regarding new controlling person no new application or fee needed from controlling person

license goes with controlling person; \$5 transfer fee from controlling person.

~~(3) The notification required in subsection (1) shall be submitted to the executive director by certified mail within 14 days of a change in a licensee's status. Within 30 days of a change in its status, the licensee, or other entity resulting from such change or both, shall submit new applications, new financial or other information, and new or additional fees to the Board's office as needed to comply with Part XI of Chapter 468, F.S., and the rules of this Board, by any form of mail that provides the sender with delivery confirmation.~~

~~(4) through (5) No change.~~

~~(6) In the event of a change in status of controlling person pursuant to paragraph (2) (g)(h) or (h)(i), as outlined above, the controlling person and all employee leasing companies involved the company to which the controlling person has moved shall submit notifications to the Board of the acceptance of the controlling person's transfer, along with a \$25 fee for the change of company name on the individual's license.~~

~~(7) No change.~~

~~(8) In the event of a purchase or acquisition of control pursuant to paragraphs (2)(d) or (e), above, the controlling persons in the purchased employee leasing company must demonstrate that workers compensation coverage is/was in effect during the purchase or acquisition of control and at all time subsequent thereto for the employees of the entity purchased or over which control was acquired by providing a certificate of coverage from an insurance carrier that is admitted in the State of Florida naming the new owner or owners as the insured.~~

~~Rulemaking Specific Authority 455.201(2), 468.522, 468.524(2), 468.525(3), 468.526, 468.530(3), 468.531, 455.201(2) FS. Law Implemented 468.524(2), 468.525(3), 468.526, 468.530(3), 468.531 FS. History—New 1-27-93, Amended 5-20-93, Formerly 21EE-10.002, Amended 10-24-93, 8-17-94, 11-9-95, 5-21-96, 11-24-96, 3-18-97, 3-1-05, 10-23-05, 12-31-06, _____.~~

Mr. Morrison asked if the effective date as listed in section (1) needs to be changed to 9/2012.

Ms. Clark stated he was correct.

After discussion, the following motion was made:

MOTION: Ms. Dockery moved to approve the draft language for Rule 61G7-10.002, F.A.C. as presented.

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

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

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

MOTION: Mr. Jones moved that the proposed amendments to Rule 61G7-10.002, F.A.C. would not have an adverse impact on small business.

SECOND: Mr. Finkelstein 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: Mr. Jones 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 responses to the questions, a SERC would not be needed.

Mr. Miller addressed the board concerning Form DBPR ELC 6 stating he thinks there should be a separate form for an asset purchase and one for a stock purchase.

The board had a very lengthy discussion regarding the changes to Form DBPR ELC 6.

Mr. Miller stated he would review the current form and bring back to the board proposed changes and the possibility of two forms that would represent an asset purchase and a stock purchase.

Ms. Clark introduced the proposed language to Rule 61G7-5.0012, F.A.C. She informed that while she was reviewing the rule, she discovered that it had not been updated since the agency formally known as the Department of Banking and Finance had been renamed the Florida Office of Financial Regulation and that it incorporated some old rules and forms that no longer existed.

61G7-5.0012 Historical Sketch.

(1) Each initial application for an Employee Leasing Company license shall be accompanied by a completed "Historical Sketch," Form DBPR EL 4512, effective ~~5/2011~~ ~~3-18-2004~~, which is hereby incorporated by reference and available by mail from the Board office at 1940 North Monroe Street, Tallahassee, Florida 32399-0750 or from its Website at www.myflorida.com, from those individuals who:

(a) Directly or indirectly control 20% or more of the voting stock of the applicant or of its ultimate parent, if the applicant or its ultimate parent is a publicly traded company; or

(b) Directly or indirectly control 10% or more of the voting stock of the applicant or of its ultimate parent, if the applicant or its ultimate parent is a closely held company; or

(c) Are directors or principal officers of the applicant or its ultimate parent.

(2) In lieu of filing the above mentioned form the applicant may file updated copies of "Exhibit 1," Form OFR-S-7-91, effective 11/22/10, which is hereby incorporated by reference and available at www.flofr.com/securities/reg_forms.aspx, ~~the historical sketches~~ for the same individuals which the applicant has previously filed as part of an application for registration of securities with the Florida Office of Financial Regulation ~~Department of Banking and Finance as a condition for issuing securities contained in form DOSIP-S-1-91, Application for Registration of Securities (Revised 1-91) or DOSIP-S-7-91, Exhibit 1 (General Issue) (Revised 1-91) or its predecessor form, which have been incorporated in Rule 69W-301.002~~ ~~3E-304-002, F.A.C., or other filings containing similar information which have been filed with the U.S. Securities and Exchange Commission or with any state securities regulatory agency.~~

(3) Each employee leasing company shall, within thirty (30) days of any person's or entities' acquisition of 10% or more of its voting stock or the voting stock of the employee leasing company's ultimate parent (if the employee leasing company or its ultimate parent is a closely-held company) or 20% or more of the voting stock of the employee leasing company or of its ultimate parent (if the employee leasing company or its ultimate parent is a publicly-held company), submit Form DBPR EL 4512, ~~entitled Historical Sketch, incorporated herein by reference and available from the Board or to the Board from such person(s) or entities.~~

(4) As a condition of renewal all employee leasing companies are also required to update any material changes to the previously filed forms or alternative information.

(5) Each Application for Certificate of Approval for/Notification of Change of Ownership, required by Rule 61G7-10.002, F.A.C., ~~application for a certificate of approval for a proposed change of ownership~~ shall be accompanied by a completed Form DBPR EL 4512 for the same individuals as specified in subsection (1) above.

(6) Those employee leasing companies that were not required to have submitted Form DBPR EL 4512 or provide the alternative information as specified in subsection (2) above as a requirement for initial licensure must submit such forms or information as a condition for renewal of licensure.

(7) If any individual who is required to submit a completed Form DBPR EL 4512 or in the alternative information evidences a lack of good moral character, as defined in Section 468.525(2)(a), F.S., then the initial employee leasing licensure application shall be denied or the license shall not be renewed until the individual(s) in question is no longer involved with the employee leasing company in a capacity which would require the submission of a historical sketch of the individual(s) to the Board as provided herein.

After discussion, the following motion was made:

MOTION: Mr. Jones moved to approve the draft language for Rule 61G7-5.0012, F.A.C. as presented and to notice the rule for development.

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

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

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

MOTION: Mr. Jones moved that the proposed amendments to Rule 61G7-5.0012, F.A.C. would not have an adverse impact on small business.

SECOND: Mr. Finkelstein 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: Mr. Jones 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 responses to the questions, a SERC would not be needed.

❖ Form Discussion - Controlling Person Application – Form DBPR ELC 1

The board had a very lengthy discussion regarding the changes to Form DBPR ELC 1.

Mr. Miller noted that changes may need to be made to Rule 61G7-5.001, F.A.C. to address the issue of when an application is submitted/ effective.

After discussion about possible changes to Rule 61G7-5.001, F.A.C., the board made the following motion.

MOTION: Mr. Jones moved to notice Rule 61G7-5.001, F.A.C. for development and to approve the language of "submitted in" for sections (3) (a) and (b) instead of "effective in."

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

After approval of the proposed language, Ms. 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 61G7-5.001, 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: Mr. Finkelstein 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: Ms. Dockery seconded the motion and it passed unanimously.

Ms. Clark stated based on the board's responses to the questions, a SERC would not be needed.

Mr. Morrison stated he would take the proposed changes back to the department for consideration and will bring the forms back with the board's changes to the next in-person meeting.

The board agreed to table discussion of Forms 2-5 until the next in-person meeting which will allow Mr. Miller time to review and bring back any changes that he will propose to the forms.

Ms. Clark reminded the board of the discussion earlier with Mr. Wilson about opening up Rule 61G7-7.003, F.A.C. Notice of Non-Compliance to address the issues that were raised.

The board agreed to agenda Rule 61G7-7.003, F.A.C. for discussion for the November meeting

XI. OLD BUSINESS

None

XII. NEW BUSINESS

None

XIII. PUBLIC COMMENTS

NONE

XIV. ADJOURNMENT

MOTION: Mr. Finkelstein moved to adjourn the meeting at 6:16 p.m.

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

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