

MINUTES

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

**Department of Business and Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399**

February 19, 2003

I. CALL TO ORDER

The meeting was called to order at approximately 8:35 a.m. EST by Ms. Celeste Dockery, Board Chair.

II. ROLL CALL

MEMBERS PRESENT

Celeste Dockery, Chair
David Stroyan, Vice Chair
Frank Crum, Jr.
Kelly Lanza

MEMBERS ABSENT

Richard Goldman
Donna Bloomer

STAFF PRESENT

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

OTHERS PRESENT

Bobby Newman, Pyramid Diversified Services, Inc.
Bill Lindsley, Pyramid Diversified Services, Inc.
Virginia A. Dorris, The NELCO Companies
Doug Marshall, Pay Centers of America, Inc.
Ed Rawls, Core Employer Services, LLC
Richard Powell, Professional Business Partners, Inc.
Abram Finkelstein, StaffLink Outsourcing

Li Nelson, Holtzman Equels
Robert Kneip, Oasis Outsourcing
Robert Skrob, FAPEO
Rustin Polk, AMS
J.C. Dominguez, Staffing Concepts
Michael Miller, FAPEO

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

INTRODUCTIONS

Ms. Sandi Boyd introduced Mr. Leon Biegalski, who most recently had served as the Board's executive director, as the Department's new Deputy General Counsel. Mr. Biegalski expressed his pleasure in working with the Board and introduced Ms. Juanita Chastain as the Board's new executive director effective February 28, 2003. Ms. Chastain stated that she looked forward to working with the Board again. Ms. Dockery congratulated Mr. Biegalski and stated that the Board looks forward to working with Ms. Chastain.

III. REVIEW AND APPROVAL OF THE JANUARY 22, 2003, TELEPHONE CONFERENCE CALL MEETING MINUTES

MOTION: Ms. Kelly Lanza moved to approve these minutes.
SECOND: Mr. Frank Crum, Jr. seconded the motion and it passed unanimously.

IV. DISCIPLINARY PROCEEDINGS – Office of the General Counsel

- **SETTLEMENT STIPULATION** Case #
 - A. **Outsource 2000, Inc.** **2001-04591, 2000-08427**
Gregory McClelland **2001-04592, 2000-08428**
(PCP: Byrd and Crum, December 12, 2001)

Mr. Eric Hurst presented these cases after Ms. Li Nelson, respondent's counsel, waived the quorum requirement. Mr. Hurst explained that the cases came before the Board previously and a settlement stipulation was approved. Mr. Hurst stated that at that time the respondent's counsel appeared and acknowledged that subsequent to the filing of the administrative complaint the respondents have become delinquent in filing their 2001 year-end financial statements. Mr. Hurst further explained that the Board elected to approve their initial stipulation and revisit the subsequent violation at a later meeting. Mr. Hurst stated that today the Board has an addendum to the stipulation in which the respondents consent to waiving a finding of probable cause for the filing of an amended administrative complaint adding the subsequent violation. He added that the respondents have agreed to pay an additional fine and to relinquish their licenses and suggested a total fine of \$1,000, given that the respondents were forthcoming.

MOTION: Ms. Lanza moved to accept the settlement stipulation amendment.

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

MOTION: Mr. Crum moved to accept the suggested fine of \$1,000.

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

- B. **Thomas C. Meade** **2001-03979, 2001-03981**
(PCP: Byrd and Crum, February 20, 2002)

Mr. Hurst presented this case stating that although the agenda lists it as a settlement stipulation, it is actually a motion for final order. He explained that the case stems from violations involving the failure to submit the 2000 annual assessment fee and 2000 annual audited financial statements. He stated that the respondent admitted to the violations and signed a stipulation; however, the Board did not accept it and offered a counter stipulation. He explained that the counter stipulation has been returned undeliverable and attempts to reach the respondent have failed. He added that the respondent has failed to provide the Board with a current address of record as required.

Mr. Rimes indicated that the Board does not have a quorum and inquired if the respondent previously waived the quorum requirement, such as when the original stipulation was presented to the Board. Mr. Hurst was unsure. Mr. Rimes suggested that the Board act contingent upon confirmation by Mr. Hurst that the respondent previously waived the quorum requirement, and if not, revisited the matter. Mr. Hurst recommended a \$5,000 fine plus costs of \$441.76, and revocation of the license.

MOTION: Mr. Stroyan moved to accept the motion for final order.

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

MOTION: Mr. Stroyan moved to accept Mr. Hurst's recommendation of a \$5,000 fine plus costs of \$441.76, and revocation of the license.

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

Mr. Hurst distributed a disciplinary case status report to the Board members and staff.

V. REVIEW AND CONSIDERATION OF EMPLOYEE LEASING COMPANY APPLICATIONS

A. Pay Centers of America, Inc.

Andrea Ann Tully, Controlling Person Applicant

Ira Douglas Marshall, Jr., Controlling Person Applicant

Ms. Boyd presented these applications explaining that the workers' compensation policy only covers internal employees. Mr. Miller stated this is an attempt to comply with the rule adding that they do not intend to have leased employees without a policy covering leased employees. Ms. Boyd asked if an attestation statement was submitted as required by rule. Mr. Miller indicated that Mr. Marshall was present and could make that statement. Mr. Miller added that new carriers are entering the market and they hope to secure a policy that is not client-based. He stated it was inappropriate to give a statement that they intend to have client-based policies when that is not their intent. He indicated they could give a statement that they will not have leased employees until they have client-based policies or a policy in the company's name.

Ms. Lanza inquired if there was coverage for leased employees right now. Ms. Boyd stated no. Mr. Miller stated that there are no leased employees. He indicated that if it is preferred, an attestation could be given that if they have leased employees, they will use client-based policies, and if that changes, they will notify the Board that they have secured their own policy. Mr. Rimes clarified that the applicant needs to have either a policy covering leased employees or an attestation addressing the utilization of client-based policies. Mr. Miller stated that they would be glad to provide the Board with the attestation statement.

Ms. Boyd reported that reviewed interim financial statements were submitted; however, year-end financial statements are required. Mr. Miller stated that there were no wages in 2001, and there is a letter from their accountant saying there are no material changes from the interim financial statement.

Ms. Boyd reported that the credit reports appear favorable, but pointed out that Mr. Marshall had tax liens which are explained in the application materials. She reported that the FDLE and FBI reports have not been received; however, ChoicePoint reports show no criminal history.

MOTION: Ms. Lanza moved to table these applications pending verification of workers' compensation coverage for leased employees or receipt of an attestation statement and receipt of year-end audited or reviewed financial statements.

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

B. Confederated Employers & Benefits Company, Inc.

Raymond L. Foushee, Controlling Person Applicant

Leon R. Gorman, Jr., Controlling Person Applicant

Ms. Boyd presented these applications indicating that the company intends to utilize client-based policies and has submitted a statement under oath. She pointed out that the policy issued to the company indicates coverage is only for Alabama and would not appear to cover leased employees in Florida should there be a lapse in a client-based policy. She added that the FDLE and FBI reports for the controlling person applicants have not been received; however, ChoicePoint reports show no criminal history.

The consensus of the Board and its counsel was that it was their understanding from staff with the Florida Department of Insurance (DOI) at the Board's last few meetings that if employee leasing companies are going to utilize client-based policies, the DOI would still like to see them have a policy that does not specifically exclude leased employees.

Mr. Rimes indicated that it appears this company has met the Board's statutory requirements. He added that the Board may wish to notify the company that based on information in the application, there appears to be no employees in Florida, and if they are going to have employees in Florida, they must comply with Chapter 440, Florida Statutes, in that regard and may be required to obtain a Florida workers' compensation policy.

- MOTION: Mr. Crum moved to approve these applications contingent receipt of FDLE and FBI reports. He also instructed staff to send a letter to the company informing them that if they have employees in Florida, who are not covered by client-based policies, they may be required to obtain a Florida workers' compensation policy and that pending a position from the DOI, they may be required to obtain a Florida workers' compensation policy that does not exclude leased employees.
- SECOND: Mr. Stroyan seconded the motion and it passed unanimously.

Mr. Miller inquired whether the requested financial statements from Pay Centers of America, Inc. would need to reflect a \$50,000 tangible accounting net worth. The consensus of the Board was that the reviewed interim financial statements have already evidenced the company's financial strength, but a year-end financial statement is needed to meet the licensure requirements.

Mr. Miller asked if the Board would consider approving applications without the FDLE/FBI reports if backgrounds checks from ChoicePoint, Equifax or other agencies are clear with the applicant's understanding that should the FDLE/FBI reports reveal a criminal history, they will subject themselves to the Board's jurisdiction. The consensus of the Board was to accept Mr. Miller's proposal. Mr. Rimes suggested that the Board receive a statement from the applicant accepting that limitation to ensure that they understand they may be called back before the Board if additional information is revealed.

VI. REVIEW AND CONSIDERATION OF CONTROLLING PERSON APPLICATIONS

A. Bobby Randel Newman Pyramid Diversified Services, Inc. – EL 202

Ms. Boyd presented this application indicating that the credit report is clear; however, the FDLE/FBI reports have not been received. She indicated that the application states that Mr. Newman owns 50 percent of the company; however, prior approval by the Board for him to acquire control of the company could not be found. Mr. Newman indicated this is proposed ownership. Ms. Boyd asked if a change of ownership application had been filed. Mr. Bill Lindsley indicated they were in the process of completing it.

Ms. Boyd asked if Mr. Newman would be the company's CEO if the sale is not consummated. Mr. Newman indicated no. Mr. Rimes explained that the change of ownership application and applications for proposed controlling persons need to be presented together to the Board. He further explained that if Mr. Newman is not going to be CEO, notwithstanding the purchase, and is not yet the owner, then he does not have the basis for being a controlling person at this time.

- MOTION: Ms. Dockery moved to table this application until receipt of a complete change of ownership application.
- SECOND: Mr. Stroyan seconded the motion and it passed unanimously.

B. Robert Minkhorst Gevity HR II, L.P. – GL 99

Ms. Boyd presented this application indicating that the credit report is clear; however, the FDLE/FBI reports have not been received. Ms. Boyd stated that a report from General Information Services had been received indicating that there is no felony history. Ms. Boyd

reported that an employment verification form had not been received from Gevity HR; however, they did submit a letter stating that he is currently employed at Gevity HR.

MOTION: Mr. Stroyan moved to approve this application contingent upon receipt of the FDLE/FBI reports or receipt of a statement from the applicant that he understands that if the FDLE/FBI reports come back with criminal history, he will subject himself to the Board's jurisdiction and accept that limitation.

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

VII. REVIEW AND CONSIDERATION OF CHANGE OF OWNERSHIP APPLICATION

- **The Cura Group, Inc. – GL 88**
The Cura Group II, Inc. – GM 196
The Cura Group III, Inc. – GM 197
Purchaser: Certified Services, Inc.
(Alan Bruce Willard – CO 283)
(Danny Leo Pixler – CP Applicant)
(Anthony Richard Russo – CP Applicant)

Ms. Boyd presented this application indicating that the applications appear to be complete; however, the FDLE and/or FBI reports have not been received for the controlling person applicants. Ms. Boyd reported that a ChoicePoint report had been received for Mr. Pixler and an Equifax report had been received for Mr. Russo which indicate no criminal history.

MOTION: Mr. Crum moved to approve these applications contingent upon receipt of the FDLE/FBI reports or receipt of a statement from the applicants that they understand that if the FDLE/FBI reports come back with criminal history, they will subject themselves to the Board's jurisdiction and accept that limitation.

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

VIII. REVIEW AND CONSIDERATION OF CONTROLLING PERSON LICENSE RELINQUISHMENT

- A. Erika Walther Quirk – CO 591**
Accredited Solutions I, Inc. (n/k/a Asmara of Florida I, Inc.) – GL 92
- B. Robert Henry Walther – CO 592**
Accredited Solutions I, Inc. (n/k/a Asmara of Florida I, Inc.) – GL 92

Ms. Boyd presented these relinquishments stating there are no open complaints against them.

MOTION: Mr. Stroyan moved to accept these license relinquishments.

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

IX. REVIEW AND CONSIDERATION OF EMPLOYEE LEASING COMPANY NAME CHANGES

- A. Great American Employee Services, Inc. – GL 45**
TO: Crum Staffing, Inc.
- B. Great American Employee Services II, Inc. – GL 100**
TO: Crum Staffing II, Inc.
- C. NBR Group IV, Inc. – EL 253**
TO: The Power P.E.O. of Florida, Inc.
- D. BNA Group, Inc. – EL 243**
TO: Harbor America Florida Inc.

- E. NBR Group II, Inc. – EL 251**
TO: Co-Advantage Resources – Florida, Inc.
- F. Equity Leasing – Finance, Inc. – EL 260**
TO: SC of Florida II, Inc.

Ms. Boyd presented these requests for name change.

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

- G. Thunder Road Delivery, Inc. – EL 225**
TO: Sunwest PEO of Florida VII, Inc.
- H. Abel Leasing Company, Inc. – EL 261**
TO: Abel Southeast, Inc.

Ms. Boyd presented these requests for name change.

MOTION: Ms. Lanza moved to approve these name changes.
SECOND: Mr. Crum seconded the motion and it passed unanimously.

X. WORKERS' COMPENSATION RULES DISCUSSION

Ms. Dockery reported that she had not received the letter from the DOI explaining their position on client-based policies. Ms. Boyd stated that the Board office had not received the letter either.

Mr. Rimes reported that amendments to the initial workers' compensation rule have been noticed for adoption and will be filed assuming no requests for hearing have occurred.

Mr. Miller asked if notification of the new rule could be included in licensure renewal notices. Ms. Boyd stated she would contact the Department's license renewal office.

XI. OFFICE OF THE ATTORNEY GENERAL'S REPORT – John Rimes

Mr. Rimes stated he had no report.

XII. EXECUTIVE DIRECTOR'S REPORT

Ms. Boyd stated she had no report.

XIII. CHAIRPERSON'S REPORT – Celeste Dockery

Ms. Dockery stated she had no report.

XIV. OLD BUSINESS

None

XV. NEW BUSINESS

None

X. ADJOURNMENT

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

The meeting was adjourned at approximately 9:50 a.m. EST.