

BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA

FILED
MAY 06 2013
INSURANCE COMMISSIONER
OKLAHOMA

STATE OF OKLAHOMA, *ex rel.*)
JOHN DOAK, Insurance Commissioner,)
)
Petitioner,)
)
v.)
)
NUPAY, LLC, d/b/a NUETERRA HR)
SOLUTIONS, a full registration professional)
employers organization, # 862795)
)
Respondent.)

Case No. 13-0251-DIS

FINAL ADMINISTRATIVE ORDER

COMES NOW the State of Oklahoma, *ex rel.* John Doak, by and through his undersigned attorney, and alleges and states as follows:

JURISDICTION

1. John Doak is the Insurance Commissioner of the State of Oklahoma and as such is charged with the duty of administering and enforcing all provisions of the Oklahoma Professional Employer Organization Recognition and Registration Act. 40 O.S. §§ 600.1 et seq.
2. Respondent is a registered professional employer organization in the State of Oklahoma holding license number 862795. Respondent has a statutory home office address of 300 Riverwalk Terrace, Suite 280, Jenks, Oklahoma 74037.
3. The Insurance Commissioner, pursuant to the provisions of 40 O.S. § 600.9 may, after notice and opportunity for hearing, refuse to register any person, suspend or revoke the registration of any professional employer organization, or impose administrative fines as provided for in the Oklahoma Professional Employer Organization Recognition and Registration Act if the

Commissioner finds that the registrant or applicant has violated any of the provisions of this section, rules lawfully promulgated by the Commissioner, or the conditions of financial assurances required by this act.

4. If the Insurance Commissioner finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in his order, summary suspension of a license may be ordered pending proceedings for revocation or other action. 75 O.S. §§ 314(C)(2) and 314.1; OAC 365:1-7-9(a).

5. If the Respondent requests a hearing in this matter, the Insurance Commissioner, pursuant to 36 O.S. § 319, will appoint an independent hearing examiner who shall sit as a quasi-judicial officer and who may preside over the hearing requested by the Respondent.

FINDINGS OF FACT

1. Respondent is a registered professional employer organization in the State of Oklahoma holding license number 862795. Respondent has a statutory home office address of 300 Riverwalk Terrace, Suite 280, Jenks, Oklahoma 74037.

2. Each PEO registered in Oklahoma shall maintain either: (1) A minimum net worth of Fifty Thousand Dollars (\$50,000.00), as reflected in the financial statements submitted to the Commissioner with the initial registration and each annual renewal; or (2) A bond or securities with a minimum market value of Fifty Thousand Dollars (\$50,000.00), held by a depository designated by the Commissioner, securing payment by the PEO of all taxes, wages, benefits or other entitlement due to or with respect to a covered employee, if the PEO does not make such payments when due. Any bond or securities deposited under this subsection shall not be included for the purpose of calculation of the minimum net worth required by this subsection. 40 O.S. § 600.6(A).

3. The Department received a bond cancellation notice advising that Respondent's bond would expire on July 10, 2012. Thereafter, the Department notified Respondent by letter dated July 24, 2012, sent certified mail, to its address of record that Respondent was not in compliance with the statutory requirements.

4. Each PEO registered in Oklahoma shall submit to the Commissioner, within ninety (90) days after the end of each calendar quarter, a statement by an independent certified public accountant that all applicable state payroll taxes for covered employees located in this state have been paid on a timely basis for that quarter. 40 O.S. § 600.6(B).

5. The Department also notified Respondent in the same July 24, 2012 letter that Respondent was not in compliance with this statutory requirement and requested all statutorily required documentation within thirty days of receipt of the July 24, 2012 letter.

6. The letter was returned for an incorrect address. The Department followed up by sending the letter via email given: cmatlach@nueterrahr.com. No response was received.

7. A second request was sent on August 15, 2012 to Respondent that the Department had not received the quarterly payroll tax certification for the calendar quarter ending March 31, 2012 and that Respondent was not in compliance with 40 O.S. § 600.6(B).

8. The letter was returned for an incorrect address. The Department followed up by sending the August 15, 2012 letter via email given: cmatlach@nueterrahr.com. No response was received.

9. A third request was sent on October 1, 2012 to Respondent that the Department had not received the quarterly payroll tax certification for the calendar quarters ending March 31, 2012 and June 30, 2012 and that Respondent was not in compliance with 40 O.S. § 600.6(B).

10. The letter was returned for an incorrect address. The Department followed up by sending the October 1, 2012 letter via email given: cmatlach@nueterrahr.com. No response was received.

11. The Department mailed a renewal notice on December 3, 2012. Respondent failed to renew its registration and pay the \$250.00 renewal fee by February 28, 2013.

12. The Insurance Commissioner hereby finds that there is clear and convincing evidence that Respondent failed to maintain a bond in the amount of \$50,000.00; failed to provide quarterly CPA reports; failed to update its address and email; failed to renew its annual license on or before February 28, 2013; and that Respondent's conduct violates the respective provisions of the Oklahoma Professional Employer Organization Recognition and Registration Act.

13. The Commissioner further finds that Respondent's failure to maintain a bond in the amount of \$50,000.00, failure to provide quarterly CPA reports; failure to update its address and email address and failure to renew its registration on February 28, 2013 are business practices that pose an imminent threat to the welfare of the residents of this state.

CONCLUSIONS OF LAW

1. Respondent has violated 40 O.S. § 600.6(A) in failing to maintain a bond in the amount of \$50,000.00;

2. Respondent has violated 40 O.S. § 600.6(B) in failing to provide quarterly CPA reports to the Department;

3. Respondent has violated 40 O.S. § 600.5(C) in failing to renew its registration and pay the \$250.00 renewal fee by February 28, 2013 and Respondent is holding itself out as a PEO in the state of Oklahoma without proper registration.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Insurance Commissioner that the **Emergency Order of Suspension Instanter** entered in this matter on March 11, 2013 is a **FINAL ADMINISTRATIVE ORDER**, that no hearing was requested and Respondent's license is hereby **REVOKED**.

WITNESS My Hand and Official Seal this 6th day of May, 2013.



PAUL WILKENING
FIRST DEPUTY COMMISSIONER
STATE OF OKLAHOMA

CERTIFICATE OF MAILING

I, Julie Meaders, hereby certify that a true and correct copy of the above and foregoing Final Administrative Order was mailed by certified mail with postage prepaid and return receipt requested on this 6th day of May 2013, to:

Jerry Wilkins
300 Riverwalk Terrace
Suite 280
Jenks, Oklahoma 74037

CERTIFIED MAIL NO: 7001 0320 0003 9966 6251

Jerry Wilkins
11221 Roe Ave.
Suite 320
Leawood, Kansas 66211

CERTIFIED MAIL NO: 7001 0320 0003 9966 6367

And a copy delivered to:

Joel Sander/Melanie Paxton
Financial Division



Julie Meaders
Assistant General Counsel



JOHN D. DOAK
Insurance Commissioner
 Oklahoma Insurance Department
 5 Corporate Plaza
 3625 NW 56th Street, Suite 100
 Oklahoma City, OK 73112-4511



7001 0320 0003 9966 6251



U.S. POSTAGE **PITNEY BOWES**
 ZIP 73112 \$006.31⁰
 02 1W
 0001363374 MAY 06 2013

1st NOTICE
 2nd NOTICE
 RETURNED

Jerry Wilkins
 300 Riverwalk Terrace
 Suite 280
 Jenks, OK 74037

ANK

NIXIE 731 FE 1009 0005/16/13
 RETURNED TO SENDER
 ATTEMPTED - NOT KNOWN
 UNABLE TO FORWARD
 BC: 73112451125 *2557-01101-16-13

PLACE STICKER TOP OF ENVELOPE OR TO THE RIGHT OF THE RETURN ADDRESS.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

Jerry Wilkins
 300 Riverwalk Terrace
 Suite 280
 Jenks, OK 74037
 13-0251-DIS/JAM(mt)Fin. Adm. Ord.

MAY 20 2013

RECEIVED
 OKLAHOMA INSURANCE DEPARTMENT

COMPLETE THIS SECTION

- A. Signature X
- B. Received by
- D. Is delivery attempted? If YES, enter

1529 9966 0000 0220 1007

U.S. Postal Service
CERTIFIED MAIL RECEIPT
 (Domestic Mail Only; No Insurance Coverage Provided)

| | |
|--|-----------------------|
| Postage \$ | |
| Certified Fee | |
| Return Receipt Fee (Endorsement Required) | |
| Restricted Delivery Fee (Endorsement Required) | |
| Total Postage & Fees | |
| Sent To | Jerry Wilkins |
| Street, Apt. No., or PO Box No. | 300 Riverwalk Terrace |
| City, State, ZIP+4 | Jenks, OK 74037 |
| Postmark Here | MAY 06 2013 |

- 3. Service Type Certified Register Insured
- 4. Restricted Delivery? (Extra Fee) Yes

Jerry Wilkins
 300 Riverwalk Terrace
 Suite 280
 Jenks, OK 74037
 13-0251-DIS/JAM(mt)Fin. Adm. Ord.

See Reverse for Instructions

2. Article Number (Transfer from service label) 7001 0320 0003 9966 6251
 PS Form 3811, February 2004 Domestic Return Receipt

102595-02-M-1540

| U.S. Postal Service CERTIFIED MAIL RECEIPT <i>(Domestic Mail Only; No Insurance Coverage Provided)</i> | |
|--|--|
| OFFICIAL USE | |
| Postage \$ | Postmark Here MAY 03 2013 |
| Certified Fee | |
| Return Receipt Fee (Endorsement Required) | |
| Restricted Delivery Fee (Endorsement Required) | |
| Total Postage & I | Jerry Wilkins |
| Sent To | 11221 Roa Ave. |
| Street, Apt. No., or PO Box No. | Suite 320 |
| City, State, ZIP+4 | Leawood, KS 66211 |
| | 13-0251-DIS/JAM(mt)Fin. Adm. Ord. |
| PS Form 3800, January 2001 See Reverse for Instructions | |

| SENDER: COMPLETE THIS SECTION | COMPLETE THIS SECTION ON DELIVERY |
|--|--|
| <ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. | <p>A. Signature <input checked="" type="checkbox"/> X <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Shawn...</i> C. Date of Delivery <i>5/8</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> |
| <p>1. Article Addressed to:</p> <div style="border: 1px solid black; padding: 5px; margin: 5px;"> <p>Jerry Wilkins 11221 Roa Ave. Suite 320 Leawood, KS 66211 13-0251-DIS/JAM(mt)Fin. Adm. Ord.</p> </div> | <p>RECEIVED OKLAHOMA INSURANCE DEPARTMENT MAY 13 2013 Legal Division</p> |
| <p>2. Article Number (Transfer from service label) 7001 0320 0003 9966 6367</p> | <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> |
| <p>PS Form 3811, February 2004</p> | <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p> <p>102595-02-M-1540</p> |