

CONCLUSIONS OF LAW

From the Findings of Fact contained herein, the Commissioner concludes as follows:

5. The Commissioner has jurisdiction over the parties and the subject matter pursuant to Arkansas Code Annotated §§ 23-61-103, 23-65-101(b) and 23-92-401, *et. seq.*

6. A “professional employer organization” is defined as any person engaged in the business of providing professional employer services. Ark. Code Ann. § 23-92-402(12). “Professional employer services” means the service of entering into a coemployment relationship under Arkansas Code Annotated §§ 23-92-401, *et. seq.*, in which at least a majority of the employees providing services to a client or to a division or work unit of a client are covered employees and in which: (i) The arrangement is intended to be, or is, ongoing rather than temporary in nature; and (ii) Employer responsibilities, including the right of direction and control of the employees, are shared by the professional employer organization and the recipient. Ark. Code Ann. § 23-92-402(12).

7. It is unlawful for a person or entity to provide, advertise, or otherwise hold itself out as providing professional employer services in Arkansas unless the person is licensed as a PEO under Arkansas Code Annotated §§ 23-92-401, *et. seq.* Ark. Code Ann. § 23-92-404(a). Further, no PEO shall conduct business without an active license, or violate or fail to conform to any provision of or any lawful order or rule issued under Arkansas Code Annotated §§ 23-92-401, *et. seq.* Ark. Code Ann. § 23-92-411(a)(8), (10).

8. A PEO is exempt from the licensing requirements if the PEO is domiciled outside of Arkansas and is licensed or registered as a PEO in another state that has requirements the same or greater than those of Arkansas, does not maintain an office in this state or solicit in any manner clients located or domiciled within Arkansas, and has one hundred (100) or fewer covered employees employed or domiciled in Arkansas. Ark. Code Ann. § 23-92-404(f)(1).

However, the PEO must submit a properly executed request for exemption on a form provided by the State Insurance Department. Ark. Code Ann. § 23-92-404(f)(1)(A).

9. Respondent acknowledges and admits that it violated Arkansas laws by conducting business as a PEO in this State without obtaining the proper license or license exemption, pursuant to Arkansas Code Annotated § 23-92-404. Respondent asserts that it did not intentionally violate Arkansas law.

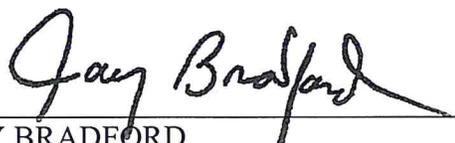
10. Respondent desires to engage in business in Arkansas as a PEO and to obtain the proper license or license exemption to do so, and Respondent enters into this agreement with the Department in order to resolve the violation and obtain licensure in this State.

IT IS THEREFORE ORDER AS FOLLOWS:

Based on the foregoing, the parties agree that Respondent will pay a monetary penalty of \$500.00 for violating provisions of Arkansas Code Annotated §§ 23-92-401, *et. seq.* Upon obtaining a Professional Employer Organization license or license exemption, Respondent will be placed on probation for a period of one (1) year, and it must comply with all laws or be subject to immediate suspension.

IT IS SO ORDERED THIS 16th day of August, 2013.


CARY DANIEL, CHIEF EXECUTIVE
OFFICER OF PEO OF NEXTAFF, LLC


JAY BRADFORD
INSURANCE COMMISSIONER
STATE OF ARKANSAS