

**BEFORE THE INSURANCE COMMISSIONER
FOR THE STATE OF ARKANSAS**

**ARKANSAS INSURANCE DEPARTMENT
PETITIONER**

VS.

**THE EMPLOYER ADVANTAGE, LLC.
RESPONDENT**

A.I.D. NO. 2018- 79

CONSENT ORDER

On this day, the matter of The Employer Advantage, LLC, (“Respondent”) came before Allen Kerr, Arkansas Insurance Commissioner (“Commissioner”). The Arkansas Insurance Department (“Department”) is represented by Associate Counsel, Gray Allen Turner. The Respondent is represented by its attorney, Jared Young.

GENERAL STIPULATIONS

1. It is expressly understood that this Consent Order is subject to the Commissioner's acceptance and has no force of effect until such acceptance is evidenced by the signature and entry of the Order by the Commissioner.

2. This Consent Order is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Consent Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Consent Order by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of this matter or any administrative proceedings.

3. The parties understand and agree that this Consent Order applies only to the matters and things set forth in the Findings of Fact and matters and things related thereto.

4. After consultation with legal counsel, the Respondent, without admitting or denying the Department's findings contained herein, expressly waives all further procedural steps, and expressly waives all right to a formal hearing, to seek judicial review of or to otherwise challenge the validity of the Consent Order, the stipulations and imposition of discipline contained herein, and entry of said Consent Order by the Commissioner.

FINDINGS OF FACT

1. The Commissioner has jurisdiction over the parties and the subject matter pursuant to Ark. Code Ann. § 23-61-103.

2. Respondent, The Employer Advantage, LLC, FEIN 86-0810322 is an incorporated professional employer organization operating ("PEO") in Arkansas since 2008 and has not previously been issued a certificate of registration to operate in Arkansas.

4. As of 2017, Respondent had 43 clients operating in Arkansas with approximately 6383 employees.

6. On June 14, 2017, Respondent's representatives disclosed that the Respondent had been operating in Arkansas as a PEO without a license.

CONCLUSIONS OF LAW

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

1. By operating as a professional service organization without a valid license, Respondent has violated Ark. Code Ann. § 23-92-404.

2. Based on the foregoing, the Commissioner concludes that the Respondent shall:

a. Comply with the proposed corrective action plan as described in Exhibit A attached to this consent order for a period of five years after this order is entered. The Respondent is not required to contract with any named service provider to be considered in compliance with the consent order.

b. Pursuant to Ark. Code Ann. § 23-92-414, pay an administrative penalty in the amount of twenty thousand dollars (\$20,000) to the Arkansas Insurance Department within ninety days of the entry of this order.

ORDER

Now therefore, on the basis of the foregoing and the waiver by the Respondent of its right to a hearing and appeal under the Arkansas Administrative Procedures Act, Ark. Code Ann. §§ 25-15-201, et seq., and the admission by the Respondent of the jurisdiction of the Commissioner, the Commissioner finds that the Respondent has consented to the entry of this Order and that the following Order is appropriate and in the public interest.

IT IS THEREFORE ORDERED THAT:

1. Respondent's application for a professional employment license shall be granted for a period of two years.

2. Pursuant to Ark. Code Ann. § 23-92-414, pay an administrative penalty in the amount of twenty thousand dollars (\$20,000) to the Arkansas Insurance Department within ninety days of the entry of this order.

3. Respondent shall comply with the corrective action plan as described in Exhibit 1 attached to this consent order for a period of five years after this order is entered.

3. This Consent Order is in the public interest, is in the best interests of the parties

hereto, and represents a compromise and settlement of the controversy between the parties and is for settlement purposes only. By the signature of the company representative affixed below, the Respondent affirmatively states that the Respondent has freely agreed to the entry of this Consent Order, that it waives any rights to a hearing on the matters underlying this Consent Order, and that no threats or promises of any kind have been made by the Commissioner, the Department, or any agent or representative thereof. The parties, by signing this Consent Order, affirmatively state their agreement to be bound by the terms of this Consent Order and aver that no promises or offers relating to the circumstances described herein other than the terms of settlement set forth in this Consent Order, are binding upon them.

IT IS SO ORDERED this 11th day of July, 2018.



JARED YOUNG
ATTORNEY FOR
THE EMPLOYER ADVANTAGE LLC.
RESPONDENT



ALLEN KERR
INSURANCE COMMISSIONER
STATE OF ARKANSAS
PETITIONER

Exhibit A

Corrective Action Plan

July 3, 2018

Commissioner Allen Kerr
Arkansas Insurance Department
1200 West 3rd Street
Little Rock, AR 72201

Re: Employer Advantage licensing compliance

Our company has taken the following steps to ensure compliance with Arkansas law regarding professional employer organizations:

1. **Created and filled a full-time Compliance Manager role.** Over the history of our company, we have never had a single person responsible for overseeing our various compliance obligations. Those that did have responsibility also had many other areas they were responsible for, so compliance items sometimes slipped through the cracks.

To fix this problem, we appointed a new Compliance Manager in 2016. The Compliance Manager is responsible for helping our company stay in compliance with state and federal regulations everywhere that we operate. She has done a systematic review of our compliance situation in each jurisdiction and taken actions to correct deficiencies wherever they have been found.

2. **Signed up for the eCAL service from APEC.** This software, created by the Alliance for PEO Electronic Compliance (APEC), allows a PEO to receive automated updates and alerts when regulations change or filings are due in a given state.
3. **Implemented a customer relationship management (CRM) system.** Our CRM will allow our employees to better communicate client changes to Ms. Reidenbach so that she can more easily fulfill the various reporting obligations we have in each state.
4. **Instituted monthly compliance meetings.** Each month, the Compliance Manager meets with two members of senior management to review current and upcoming licensing and compliance issues and make sure issues are being addressed in a timely manner.

We hope these actions adequately demonstrate that we have learned from our past mistakes and are committed to remaining fully compliant in the future. Please let us know if you need any further information from us. We look forward to getting this matter resolved.

Best,

Jared Young
COO/Corporate Counsel

