

Small Business Regulatory Review Board

MINUTES OF REGULAR MEETING

September 19, 2007

No. 1 Capitol District Building – Conference Room 410

I. **CALL TO ORDER:** Chair Woods called the meeting to order at 11:15 a.m., with a quorum present.

MEMBERS PRESENT:

- Lynne Woods
- Sharon L. Pang
- Michael Yee
- Richard Schnitzler
- Charles Au
- Peter Yukimura

ABSENT MEMBERS:

- Dorvin Leis
- Donald Dymond
- Bruce Bucky

STAFF: DBEDT Office of the Attorney General
Dori Palcovich Margaret Ahn
Ilene Deutsch

GUESTS:

Theodore E. Liu, Director, Department of Business, Economic Development and Tourism (DBEDT)
Barbra Pleadwell, Owner, Hastings & Pleadwell
Kayleen Polichetti, Account Executive, Hastings & Pleadwell
Catherine Chun-Hoon, Regulated Industries Complaints Office, Department of Commerce and Consumer Affairs (DCCA)
Kelly Nakagawa, Securities Compliance, DCCA
Ty Nohara, Securities Enforcement Branch, DCCA
Tung Chan, Commissioner of Securities, DCCA

WORKING LUNCH AS THE MEETING PROGRESSED

II. **APPROVAL OF MINUTES:** Minutes of the August 15, 2007 Board meeting were approved as amended.

III. **REVIEW OF THE STATE'S INNOVATION POLICY BY DIRECTOR LIU:** Director Liu provided the members with a presentation on the State's innovation policy initiated by Governor Lingle. The presentation included the Administration's priority, information on why the State should innovate, results of an innovative economy by year 2020, ten key policy elements, results for FIRST and HiEst activities, innovation in education and workforce development, and information on innovation in global links. Chair Woods will draft a memorandum to Director Liu regarding some ideas in regards to de-regulation; the draft will be sent to the members for their review and commentary prior to submitting to Director Liu.

IV. OLD BUSINESS

- A. Review and discussion of post public hearing statement of HAR Chapter 12-136.1, "Cranes, Derricks, Hoists, Elevators, and Conveyors" (DLIR) – Vice Chair Pang indicated she was in favor of the rule changes and noted that no changes were made since this Board first reviewed the proposal. Mr. Au added that the rule amendments relate to the availability to certify or to renew certification, and that the amendments are intended to provide an enforcement mechanism to ensure that operators of cranes are properly certified to operate them. Chair Woods requested that the memorandum to the Governor include that this Board acknowledges and recognizes there is small business impact for those who must certify their workers. Conversely, there is also an opportunity that these rules allow for starting up a new company. Vice Chair Pang recommended that the proposed rule amendments proceed to the Governor for adoption with Chair Woods' recommendation; the Board unanimously agreed.
- B. Follow-up on discussion of prospective Board member(s) – Chair Woods explained that Ms. Lucy Lee Jones' application for nomination to this Board was submitted to the Governor's office. Upon review, it was determined that because Ms. Jones is a government employee, she is therefore not qualified to be a

member of this Board. Chair Woods mentioned that Ms. Jeanette Otsuka Chang, a prior Board member, would like to come back as a member of this Board, representing the island of Kauai. She will therefore be asked to resubmit an application to the Governor's office. Chair Woods suggested that the members consider bringing on a representative from the technology industry for member consideration.

V. NEW BUSINESS

- A.** Review and discussion of HAR Chapter 16-38.1 "Securities" (DCCA) – Ms. Tung Chau, Commissioner of Securities at DCCA, explained that the primary purpose of the proposed rules is to conform to the new securities law that will become effective July 1, 2008. The new Hawaii Uniform Securities Act, Chapter 485A, sets forth the State's securities law, which was passed by the legislature in 2006, to become effective and to supersede the old Uniform Securities Act, Chapter 45. The proposed new revision includes reordering the rules to correlate with the law. Ms. Chau explained that the substantive changes are not numerous and could have been done as an amendment, but that the task of reordering required a full adoption of the rules. The new rules will coordinate with the new law as completely as possible making it easier for regulators and the industry to operate within the regulatory structure. She further explained that the overall substance of the rules has not changed much with respect to the main securities functions and enforcement of the law. Vice Chair Pang recommended that the proposed rules proceed to public hearing; the Board unanimously agreed.
- B.** Review and discussion of HAR Chapter 16-182, "No Rules Combat or Similar Contests" (DCCA) – Ms. Catherine Chun-Hoon from DCCA's Regulated Industries Complaints Office, explained that the purpose of the proposed rules is to establish medical reporting requirements for contestants; this includes testing for syphilis, HIV, and hepatitis. Currently, the statute provides that no rules combat events will not be prohibited if the match or competition is between medically fit adult contestants. Because the statute does not provide additional guidance to determine when a contestant is considered medically fit, the proposed rules enable the agency to obtain relevant information as to medical fitness. The businesses that will be impacted and required to comply with the rules are the event promoters.

Second Vice Chair Yee indicated that in the local arena, contestants receive very little compensation for competing in matches unless they are the headliners. He stated that mainland promoters have been buying up the fighters so eventually there will likely be one promoter. He explained that frequently a promoter announces a fight about three months in advance, and if a fighter were to break their hand the promoter would need to replace the original fighter. Should this occur, it may prove difficult to meet the thirty-day requirement to submit an application to DCCA. After much discussion, Chair Woods requested that the memorandum to the Governor include that the Board members recognize that the proposed rules present a small business impact; in particular, there is substantial impact to the small businesses as the fight promoters will bear the cost of the required application and medical tests. She stated that the Board is concerned that the timeframes for the application and testing processes do not give the fight promoters enough time to find a replacement; for example, when a fighter in an upcoming event cannot fight due to sickness or injury prior to the scheduled match. The memorandum should include that the agency's application and physician's report be received at least thirty days prior to an event and that the required serological test be conducted within ten days prior to the physician's report. Therefore, it was requested that the rule drafters reassess the required time periods provided in the rules. Vice Chair Pang recommended that the proposed rule amendments proceed to public hearing with Chair Woods' recommendations; the Board unanimously agreed.

VI. REPORT FROM HASTINGS & PLEADWELL

- A.** Strategy for distribution of the Small Business Bill of Rights brochure – Chair Woods explained that it is her understanding that the Director of the Department of Labor and Industrial Affairs is not satisfied with the Bill of Rights brochure. It was clarified that previously the Board made some but not all of the recommended changes to the brochure by the Attorney General's office. She further explained that it was not the intent of this Board to ask for the directors' opinions as to whether they approve of the brochure because the Board will be approaching small business organizations with the brochure. Vice Chair Pang mentioned that the Director noted that the Bill of Rights brochure was odd shaped and could not be inserted into an envelop as a mailer. It was discussed, however, that the shape of the brochure was appropriate the way it was. Ms. Polichetti stated that a press release announcing the brochure should be done soon, and in the press release it should be noted that the members are available to do presentations.

- B. Presentation Training** – Ms. Barbra Pleadwell, owner of Hastings and Pleadwell, mentioned that her company is very pleased with the experience with this Board and that this is Hastings and Pleadwell's final formal presentation to the members. She noted that the most important thing to remember is that the Board is looking to build ambassadorship so that the more ambassadors the less work for the members, and the maximum the members will get out of the contract with Hastings. She explained that people are much more receptive to hearing from volunteers because those volunteers are doing the work out of the goodness of their hearts, and the audience will generally challenge the presenters less. She also explained that organizations are always happy to hear from the government about issues that pertain to their businesses. There are a lot of benefits to making presentations as it sets the members apart, and promotes their mission and helps to accomplish the Board's goals. She provided a presentation packet to the members that included tips for an effective power point presentation and a checklist for speaking engagements. She explained that photographs are important as they grab people's attention, and stressed that it was critical to have a professional photo on hand.

Ms. Kayleen Polichetti, Account Executive from Hastings & Pleadwell, discussed the Board's slide presentation with the members. Chair Woods suggested that the first slide with the names of the members also include their pictures. The quiz on the second slide, Ms. Polichetti indicated, is a good ice breaker to a presentation. She then went through and made comments to each slide.

VII. ANNUAL PLAN – Update on the following Projects:

- A. Speakers' Bureau** – It was suggested that a member may want to practice on a small group before they tackle a fairly large group or organization when doing their Board presentation.
- B. Agency Letters/201M-7 Project** – It is essential to discuss the progress of the agency's response to the 201M-7 existing rule review when meeting with the agency directors.
- C. Legislative Project** – Chair Woods explained that she and Ms. Palcovich have a meeting scheduled with Senator Sam Slom to discuss what this Board can do legislatively to enhance its powers aside from solely making recommendations. She noted that some of the legislators have questioned her as to what the Board would like the legislature to help them with. Chair Woods will also schedule with Senator Slom a presentation for his organization, Small Business Hawaii.
- D. Regulatory Alert Project** – Ms. Palcovich is in the process of reaching out to the various states that have a regulatory alert system in their states and getting fundamentals on its workings.

VIII. CHAIR REPORT – Chair Woods updated the members as to the business issues with Maui. She explained that the Mayor of Maui appointed the Coordinator of Economic Development to work with Chair Woods regarding submitting administrative rules to this Board. She stated that this is a big step for the County and will plan to schedule a meeting with the coordinator in the very near future.

IX. DISCUSSION LEADER'S REPORT – Nothing was discussed.

X. NEXT MEETING: Wed., October, 17, 2007, No 1 Capitol Building, 250 South Hotel Street, Conf. Rm. 410.

XI. ADJOURNMENT – Chair Woods adjourned the meeting at 1:45 p.m.