

Staffing Industry Bulletin

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EEOC Charges Spherion with Discrimination

The Equal Employment Opportunity Commission (EEOC) has charged Spherion Corporation with employment discrimination for knowingly allowing a client to fire 12 Filipino workers because of their national origin. Spherion has countered the charge, arguing that the employees were hired without regard to national origin and were released from their assignment at the request of the client, Sega of America Inc., due to company restructuring. According to recently released EEOC guidelines, both staffing firms and their clients can be held responsible for workplace discrimination. The EEOC has filed similar cases in the past. For example, in August 2001, the EEOC filed suit against Los Angeles County for running a payrolling service used to pay female workers less than male workers for the same work. (Sources: *Center for a Changing Workforce Website*: <http://www.cfcw.org/legl.html>, *EEOC Enforcement Guidance: Application of EEO Laws to Contingent Workers Placed By Temporary Employment Agencies and Other Staffing Firms at* <http://www.eeoc.gov/docs/conting.html>, *Staffing Industry Report*, V.XIII, No. 20, October 29 2002) ❖

Washington Settles Workers Comp Dispute with Labor Ready

The Washington State Department of Labor & Industries has settled its dispute over workers compensation with Labor Ready, Inc. Washington originally sought premiums, penalties, and interest of \$1.2 million, alleging that Labor Ready's misclassified workers in order to cut its workers compensation costs in 1998 and 1999. The state will deduct \$139,000 from a refund owed to the company under the state's retroactive rating program and will then withdraw all remaining claims, audits, and assessments through June 30, 2002. The state acknowledged that outdated codes may have contributed to the classification issues raised in the audit. (Source: *Staffing Industry Report*, V.XIII, No. 20, October 29 2002) ❖

California Bill Bases Workers Comp Premiums on Contractor's Safety Record

The staffing industry is discouraged by the recent passing of a California bill which states that when staffing firms pay workers compensation insurance for workers supplied to construction contractors, the insurance premium will be based on the contractor's safety record, not the staffing firm's. Staffing firms may as a result be forced to pay higher premiums if they send workers to sites with poorer than average safety records. (Source: *Staffing Industry Report*, V.XIII, No. 19, October 11 2002) ❖

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Utah PEO Scandal Reveals Regulatory Challenges

The Utah state Insurance Department has issued a stop-work order against American Employment Group, a professional employer organization (PEO) that has failed to obtain proper workers compensation coverage, leaving its client businesses and their workers in financial danger. The company continued to collect insurance premiums and issue certificates of insurance to its clients even though it did not have insurance. It was also discovered that two high-level executives of American Employment Group had previous convictions for mail fraud and other crimes and that the Commerce Department's Division of Occupational and Professional Licensing had not performed background checks on these men before the PEO was licensed. Several sources cite loopholes in the regulation and ineffective or non-existent communication between regulatory agencies as the main obstacles to tracking PEO behavior. One Labor Commission investigator expressed a need for the state legislature to grant state departments more resources and more authority to regulate the PEOs. (Source: "Employee-Leasing Falls Between State Regulatory Cracks: Agencies Not Sharing Info on Firms" by Glen Warchol, *Salt Lake Tribune*, October 14 2002.) ❖

Mergers and Acquisitions Up; Health Care Strong

De Bellas & Co. statistics indicate that 28 staffing businesses were sold or merged in third quarter 2002, bringing this year's total to 97, which is 62% higher than last year's nine-month total. Healthcare staffing transactions continue to have the most buyer interest, despite recent declines in healthcare staffing stock prices. (Source: *De Bellas and Company Report, PR Newswire*, October 14 2002) ❖

Concerns Rise About Health Care Temp Agencies

The increased use of health care temps in response to severe nursing shortages has raised concerns about the quality of care delivered by hospitals. In Ventura, California, a lawsuit was filed against a nurse staffing agency after one of its temporary nurses (hired after permanent nurses had gone on strike) called the wrong family to tell them that their loved one had died. In Des Moines, Iowa, it was discovered that a hospital had hired temporary nurses through employment agencies without verifying the nurses' credentials, which turned out to be insufficient. Hospitals can be held liable if unqualified nursing temps make errors in patient care. Experts advise hospitals to get proof of temporary workers' qualifications, to visit staffing agency offices, and to request access to staffing agency personnel files. Hospitals can also be held responsible if temporary agencies do not pay their liability insurance claims. Experts suggest that hospitals require staffing agencies to buy professional liability insurance or to make sure that self-insured companies have the financial resources to meet their deductibles. (Sources: "Use of Temporary Staff Can Create Lasting Problems" by Roberto Cenicerros, October 14 2002 in *Business Insurance*, P. 27, "Woman Who Thought She Was Widowed Sues", by Aron Miller, September 11 2002 in *Ventura County Star*, "Government Cites Hospital Problems" by Kauffman Clark, November 10 2002 in *Des Moines Register*) ❖

Temporary Employment Up in Japan

Japan's government Labor Force Statistics Office reported that temporary employment continues to increase as companies respond to the export-driven economic recovery by using temps instead of hiring permanent workers. (Source: *Staffing Industry Report, V.XIII, No. 19, October 11 2002*) ❖

Franchise Activity Down

In contrast to 5% to 10% growth of franchise activity in the staffing industry between 1998 and 2000, franchising has stalled in the last year. Analysts predict that there could be 5% to 8% fewer franchised offices by the end of 2002. Low margins, the high cost of workers compensation, and the general recession are all factors limiting franchise growth. One exception to the decline in franchise activity was health care staffing, which had strong growth last year. (Source: *Staffing Industry Report, V.XIII, No. 19, October 11 2002*) ❖

Mortgage Industry Staffing Prospers From Low Interest Rates

With interest rates at their lowest level in thirty years due to stock market losses, companies that place temporary and permanent staff with mortgage bankers and lenders report that business has increased dramatically in the last couple of months. One of the U.S.'s largest mortgage lenders, Wells Fargo Home Mortgage, has hired 3,500 temporary workers since mid-July. (Source: *Staffing Industry Report, V.XIII, No. 20, October 29 2002*) ❖



Temp Employment Up In September; Growth Slow

According to the Bureau of Labor Statistics, temporary help supply employment held steady in September at 2.9 million, up just 2,000 from August. Though temp employment was 3.3% less this September than in September 2001, it was the best year-over-year comparison so far this year. According to the Bureau of Labor Statistics, the temp industry has recovered about 17% of the 636,000 jobs lost since the last employment high of 3.56 million in September 2000. Temporary help supply employment is increasing, but the rate of improvement has slowed in recent months. An analysis of recent labor trends by the Staffing Industry Analysts shows health care as the fastest growing staffing sector, with permanent placement, manufacturing, and IT remaining stagnant. (Source: *Staffing Industry Report, V.XIII, No. 19, October 11 2002 and Staffing Industry Report, V.XIII, No. 20, October 29 2002*) ❖

Manpower Hired to Recruit Australian Defense Force

Manpower Inc. has received a four-year contract from the Australian Defense Force to recruit all levels of army, navy, and air force personnel. The Defense Force has an enrollment target of 53,555 by 2010; it had 49,763 civilian and military personnel as of mid-2001. (Source: *Staffing Industry Report, V.XIII, No. 20, October 29 2002*) ❖