



Chapter #0388

Thursday, April 25, 2013 – Richardson Center, IRSC, Vero Beach

CALL TO ORDER

Pledge of Allegiance
Roll Call of Officers

PRELIMINARY MATTERS

Additions or deletions to the agenda
Call for motion to approve:
a. Minutes from March 2013 Meeting
b. March 2013 Treasurer’s Report
Self introductions of members and guests

NEW BUSINESS

- Announcements:
- 50/50 drawing for HR Florida/SHRM Foundation
 - HR Florida Update – Ellen Sobczak, HR FL Ambassador
 - Legal and Legislative Update – Helen Scott, Esq.
 - June Conference Update – Becky Withstandley, Conference Chair
 - Committee Updates – Committee Chairs
 - Open Forum for exchange of challenges, ideas and information – 5 minutes
 - Other New Business

FEATURED SPEAKER & PRESENTATION

12:00 – 1:00

Dr. Stephen C. Lundin
“FISH! and the Three Faces of Leadership”

1 General HRCI credit

*** TCHRA board meetings are held each month, usually Wednesday/Thursday evening following the chapter meeting. All members are welcome to attend. Please let a board member know if you plan to join the meeting so we can provide time, location, directions and ensure adequate seating.*

Please complete the program evaluation on the tables, your feedback is very important to us. Thank you for attending today’s program.

*There will be no monthly meeting in May. Our Conference is June 7. The next monthly meeting will be held on Thursday, June 27, 2013, from 11:00 am – 1:00 pm
Richardson Center, IRSC*



Treasure Coast Human Resource Association,
Members Meeting
March 28, 2013
Riverside Theater Front Lobby
Vero Beach, FL 32963



Call to Order: Dr. Mark Wade, President, called the meeting to order at 11:30 am and began the meeting with the Pledge of Allegiance.

Roll Call of Officers: TCHRA Board Members and Committee Chairs introduced themselves. In attendance were Mark Wade, President, Michelle Bollinger, Past President, Ellen Sobczak, President Elect, Jehane Myers, Treasurer, Nancy Olson, Recording Secretary, Ian Henry, Communications Chair, Becky Withstandley, Conference Chair, Laurie Collings, Hospitality Chair and Michelle Matheson, Certification Chair.

Meeting Minutes: Mark announced that copies of the February 28, 2013 meeting minutes had been emailed to everyone in the distribution list. He asked for a motion to approve the meetings as presented. Motion was made by Michelle Bollinger; seconded by Ellen Sobczak and approved unanimously.

February 2013 Treasurers Report: Mark stated that the February Financial Statement had also been emailed to everyone and opened up the floor for questions on the February Financial. Being none, he asked for a motion to approve the statement as presented. The motion was made by Ellen Sobczak, seconded by Laurie Collings and approved unanimously.

50/50 Drawings: The 50/50 Raffle for raising money for SHRM will start with this meeting. Tickets are \$1.00 each, six tickets for \$5.00 and 14 tickets for \$10.00. Ian Henry will be walking around the room to sell tickets. Half of the money collected will be donated to the SHRM Foundation each month. We will hold this raffle each meeting and will also have a Bowling Fund Raiser this summer.

HR Florida Update: Ellen Sobczak, our 2013 Chapter Ambassador for HR Florida, brought everyone's attention to the information on the tables about this year's conference. The Association has purchased a block of ten registrations at \$540.00 each which is a savings of \$210 over the current registration fee of \$750.00. There are only two of the ten registrations left, so Ellen encouraged anyone interested in purchasing one of the registrations to contact her as soon as possible.

Legal & Legislative Update: The March Legal Update was given by Helen Scott, Esq. A copy of the update was also mailed out to all members of our distribution list. Ms. Scott went over new I-9 Regulations as outlined in the update, which is included as part of these meeting minutes.

June Conference Update: Becky Withstandley our Conference Chair for 2013 reminded all that the TCHRA/Saint Lucie County HR Conference will take place on June 7th. Sponsorship forms had been emailed to everyone and are filling up fast. Becky announced that we will be using a "Bingo Card" type form to encourage all to visit the sponsors booths, similar to what is done at HR Florida. The prize will be a free registration to HR Florida.

Committee Updates – Committee Chairs:

Hospitality Committee- Laurie Collings reminded everyone that our Spring Social will be April 11th at the Havana Nights Piano Bar at the Caribbean Court Hotel on South Ocean Drive. The cost will be \$10.00 per person and that will provide you with two drinks and passed hors d'ourves. Free TCHRA Lunches and a Free HR TCHRA/Saint Lucie County Conference on June 7th will be raffled off for those that bring guests/potential new members.

HRCI Study Group: Michelle Matheson announced that April 19th is the last day to register without a late fee for the Spring HRCI testing window. She asked if anyone was planning on testing this spring. No one at today's meeting was planning on testing; however, Michelle is available to talk to anyone interested in signing up for the Study Group.

Open Forum and Other New Business: None.

Rev. Dona Alexander, Camp Haven: Mark introduced the Reverend Dona Alexander, the Program Administrator Camp Haven which is a new program for homeless people in our county. She explained that this program will be for single people and couples, and will work alongside many of the current programs in our area to help unemployed people retrain for new jobs as well as helping them with life skills to pick up the pieces of their lives. The Camp will be located at the old Citrus Hotel, which is currently being renovated and should be opening up soon. After spending some time explaining the program and how applicants will be accepted into the program, she ended her presentation by encouraging those in attendance to contact her for more information on how they can help this new program and possibly help employ the residents of Camp Haven.

Featured Speaker & Presentation: Dr. Wade introduced this month's speaker, Thomas Fulmer, the CEO of the Thomas Fulmer Company who gave his presentation titled "The Power of Influencing Positively and Creatively". Approval has been received for 1 General Credit by HRCI for this presentation and Nancy Olson has certificates for those attending today that need this HRCI Credit.

After the presentation, Mark thanked Ms. Fulmer with a gift and reminded all to fill out the evaluation forms that were on the tables.

A \$25.00 Starbucks Gift Card was raffled off as our door prize and won by Rene Frost.

The total collected for the 50/50 raffle today was \$119.00 and \$59.50 was won by _____.

Dr. Wade announced that next month's meeting will be back at the Richardson Center on April 25th and again reminded everyone about the Social on April 11th.

Adjournment: Being no further business, the meeting was adjourned at 1:05 p.m.

Respectfully submitted

Nancy Olson, PHR
Secretary



TREASURER'S REPORT

Mar-13

SEACOAST NATIONAL BANK

2/28/2013 **CHECKING ACCOUNT - BEGINNING BALANCE** \$4,904.51

INCOME:

SHRM Membership Credit	\$145.00
March Luncheon	\$614.50
Memberships	\$150.00
HR Florida Registrations from Members	\$1,620.00
Transfer from Savings Account	\$6,853.36
Checking Account Adjustment	\$110.00
TOTAL INCOME:	<u><u>\$9,492.86</u></u>

EXPENSES:

3/6/2013 February Speaker Gift Reimbursement (Kathleen Rannahan)	(\$26.74)
3/15/2013 HR Florida State Council Conference Pre-Paid Registration	(\$5,400.00)
3/28/2013 March Luncheon	(\$443.54)
TOTAL EXPENSES	<u><u>(\$5,870.28)</u></u>

3/31/2013 **CHECKING ACCOUNT - ENDING BALANCE** **\$8,527.09**

2/28/2013 **SAVINGS ACCOUNT - BEGINNING BALANCE** **\$6,853.36**

INTEREST CREDIT \$0.00

TRANSFERRED TO CHK ACCT & CLOSED SAVINGS ACCT (\$6,853.36)

3/31/2013 **SAVINGS ACCOUNT - ENDING BALANCE** **\$0.00**

3/31/2013 **TOTAL BALANCE AT SEACOAST NATIONAL BANK** \$8,527.09

3/31/2013 **PETTY CASH BALANCE** \$ 50.00


Jehane Myers, Treasurer - Submitted 4/23/2013



JUNE 7, 2013

ONE DAY CONFERENCE

EMPLOYEE INVESTIGATIONS



- **YOUR OBLIGATION BEFORE THE INVESTIGATION**
- **HOW TO CONDUCT AN EMPLOYEE INVESTIGATION**
- **HOW TO AVOID LITIGATION FROM AN EMPLOYEE INVESTIGATION**
- **ENGAGE IN AN INTERACTIVE INVESTIGATION PROCESS**

*Door Prize:
1 Free full HR Florida Conference Registration*

\$75.00 REGISTRATION INVESTMENT

7:30 A.M. TO 4:00 P.M.

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April 2013

LEGAL AND LEGISLATIVE UPDATE

The following is provided as a complimentary service to the firm's clients. It is designed to assist the reader in keeping informed of selected developments in employment law. It is not intended to be nor is it a treatment of all new developments in the field of labor and employment law. Applicability to a particular situation depends upon an investigation of the specific facts and more exhaustive study of the applicable laws than can be provided in this format. This summary is not intended to be a substitute for legal advice.

Fair Labor Standards Act

U.S. Supreme Court Ruled on Class Action

An employee brought a collective action under the Fair Labor Standards (FLSA) on behalf of herself and "other employees similarly situated." 29 U. S. C. §216(b). The defendant made an offer of judgment to fully satisfy her claim. After she ignored the employer's offer of judgment, the District Court, finding that no other individuals had joined her suit and that the offer of judgment fully satisfied her claim, concluded that employee's suit was moot and dismissed it for lack of subject-matter jurisdiction. The Third Circuit reversed. It held that the employee's individual claim was moot but that her collective action was not, explaining that allowing defendants to "pick off" named plaintiffs before certification with calculated offers of judgment would frustrate the goals of collective actions.

The U.S. Supreme Court held: Because employee had no personal interest in representing putative, unnamed claimants, nor any other continuing interest that would preserve her suit from mootness, her suit was

appropriately dismissed for lack of subject-matter jurisdiction. After the employee's individual claim became moot, the suit became moot because she had no personal interest in representing others in the action. Previous cases held that a class action is not rendered moot when the named plaintiff's individual claim becomes moot after the class has been duly certified. Here, the employee had not yet moved for "conditional certification" when her claim became moot, nor had the District Court anticipatorily ruled on any such request. She thus has no certification decision to which her claim could have related back. *Genesis Healthcare Corp. Et al. v. Symczyk*, No. 11-1059 (S. Ct. 4/16/13)

Proposed Legislation - Private Sector Compensatory Time Bill Reintroduced

Legislation that would allow private sector employers to offer their employees compensatory time off in lieu of overtime was reintroduced in the House of Representatives on April 9. The Working Families Flexibility Act (H.R. 1406) was introduced by Republican lawmakers, increasing the odds that this bill will advance in the House this term. The bill would amend the

Fair Labor Standards Act to permit private-sector employees to opt for paid time off at a rate of at least one-and-one-half hours of compensatory time per hour of overtime pay earned. This “comp time” option has long been available to public sector employees but not private sector employees.

To be eligible to choose comp time, employees must have worked at least 1,000 hours for the employer on a continuous basis within a 12-month period. Employees would be able to accrue up to 160 hours of comp time per year, and employers would be required to cash out any accrued, unused comp time at the end of the year. An employer would have the option of discontinuing the comp time policy and the option of cashing out an employee’s unused comp time that exceeds 80 hours so long as notice is provided to employees at least 30 days in advance. Employees would also be able to request that their accrued comp time be cashed out at any time. Employers would have 30 days to comply with the cash-out request.

In the past, unions have opposed similar measures because they did not trust employers to administer the comp time fairly. While this bill may be approved in the house, it is doubtful that the Senate, which has a democratic majority, will approve it.

President’s Budget Includes Expanded FLSA Enforcement

On April 11, President Obama released the details of his fiscal year 2014 budget. The President’s proposal provides some clear insight into the policy preferences of the Administration. Based on the Wage and Hour Division’s requests, employers can expect continued aggressive and even expanded FLSA enforcement. The WHD’s request includes a \$16 million funding increase to \$243 million and 63 additional full-time equivalent employees, which would bring the total number of WHD employees to 1872. The additional funds and personnel apparently would be used to continue enforcement activities against subcontracting, franchising, temporary employment, labor suppliers, and independent contracting. The

WHD specifically noted its continued focus on independent contractor misclassification.

Discrimination

Race Discrimination

Violation of an anti-theft policy was a legitimate, nondiscriminatory reason for a grocery store to terminate a black employee, the Eleventh Circuit Court of Appeals held. The employee failed to show that the discharge was pretextual—that is, a cover for the real reason for the discharge. Even though the decision to terminate her because she failed to pay full price for a deli beverage may seem harsh or unwise, there was no evidence that the decision was racially motivated. Further, the store fired every employee who had violated the policy, including five who were white. *Addison v. Ingles Markets Inc.*, No. 12-14368, (11th Cir. 2013)

Discharge of Addict Held Legal

A hospital security guard who was fired after admitting that he was a recovering drug addict while being treated in his employer’s emergency room failed to show that the termination was based on his substance abuse history rather than because he previously denied any addiction, the U.S. Court of Appeals for the Third Circuit ruled. The hospital fired the security guard shortly after he told a doctor about his substance abuse recovery as he was being treated for an eye injury sustained during an earlier shift. The hospital maintained that the employee previously lied when he denied on his employment application that he had ever been addicted to drugs or alcohol or received treatment for such addiction. The court explained that the appropriate inquiry was not whether the employee had lied on his employment application but whether the hospital had a good faith belief that he had been dishonest. As the employee had spent 40 hours in a court-ordered drug and alcohol program following his conviction for driving under the influence, he regularly attended Alcoholics Anonymous and Narcotics Anonymous meetings, and he acknowledged that he was a recovering addict, the court said the evidence “resoundingly” showed that the hospital

had substantial grounds to believe his statements on the form were dishonest. Therefore, the employee was not protected by the Americans with Disabilities Act. *Reilly v. Lehigh Valley Hosp.*, No. 12-2078 (3d Cir., 3/29/13)

Family & Medical Leave Act

Individual Notice of FMLA Eligibility
Important

Wackenhut Corporation met its general FMLA notice obligations in that it included in its employee handbook a notice to employees of their FMLA rights and also posted the DOL's FMLA poster. However, when Jacqueline Young sought and took FMLA leave, she took all 12 weeks without having received from Wackenhut a Notice of Eligibility and Rights and Responsibilities and a Designation Notice. When Young failed to return after her leave expired,

Wackenhut terminated her employment two weeks later. When Young filed an FMLA interference claim and later filed a motion for summary judgment, the court ruled in favor of Young. The Court held that, pursuant to the FMLA regulations, the individual FMLA notices provided to the employee are absolute, and when they are not provided, the employee is prejudiced. Young was not afforded the opportunity to make informed decisions about her leave, based on the lack of FMLA notice provided to her by Wackenhut. Had she been appropriately apprised of her leave time, Plaintiff could have planned and structured her leave time differently. According to the court and the regulations, "individual notice" must be provided to the employee when she requests FMLA-related leave or when the employer acquires knowledge that an employee's leave may be for an FMLA qualifying reason. 29 CFR 825.300(b). *Young v. The Wackenhut Corporation*, 2013 WL 435971 (D.N.J. 2/1/13)