

**New Jersey Commerce Commission
October 17, 2007
Board Meeting Minutes**

Members of the Board Present:

Marilyn Davis, Designee for Commissioner David Socolow; Jane Oates, Designee for the Commission on Higher Education; Gary Sondermeyer, Designee for Commissioner Lisa Jackson; Mark Stout, Designee for Commissioner Kris Kolluri; Joseph Fede, Public Member; and Sang Kim, Public Member.

Also present at the table were Kevin Drennan, Executive Director, DAG Bette Renaud, Maggie Manza, Board Secretary and Rob Shane of the Governor's Authorities Unit.

Minutes:

The meeting was called to order at 10:00 a.m.

Open Public Meetings Act Statement:

Maggie Manza announced that this is a regular meeting of the New Jersey Commerce Commission and that adequate notice of this meeting has been provided in accordance with the Open Public Meetings Act. On October 15, 2007, notice was mailed to the Star Ledger, the Trenton Times, the Trentonian, the Courier Post, the Atlantic City Press, the Bergen Record and the Home News. Notice has been duly filed with the Secretary of State and posted on the Secretary of State's bulletin board at the State House.

Resolutions:

**Res. No. 08-43 Approves Minutes of September 19, 2007 Board of
Directors meeting**

Dr. Kim made a motion to approve Resolution NJC08-43 and Mr. Stout seconded the motion. The motion was not approved; the vote was 5-0-1. Mr. Fede abstained. The Board noted that this resolution will be considered again at a future Board meeting.

**Res. No. 08-44 Phoenix Glass Limited Liability Company – Approves
Renewal of Energy Sales Tax Exemption For Certain
Counties (Salem)**

Lauren Moore, Director, described the resolution, which would approve the renewal of the Energy Sales Tax Exemption of Phoenix Glass Limited Liability Company (Phoenix), a glass manufacturer, through November 22, 2008. The estimated annual benefit to Phoenix would be \$24,850. Mr. Moore noted that Commission staff recommends that Phoenix receive the exemption renewal.

Dr. Kim made a motion to approve Resolution NJC08-44 and Mr. Stout seconded the motion. The motion was approved by a 6 - 0 vote.

Res. No. 08-45

Celgene Corporation - Approves the BRRAG Tax Credit Certificate Transfer Program application

Mr. Moore described the resolution, which would approve the BRRAG Tax Credit Certificate Transfer Program application of Celgene Corporation (Summit, Union County), a multinational biopharmaceutical company. Celgene received tax credits valued at \$345,800 from the New Jersey Division of Taxation on July 10, 2006, but the company recently certified to the Commerce Commission that it is unable to use these credits. As a result, Celgene is now seeking final approval to sell these credits for at least 75 percent of their value, as permitted under the BRRAG Tax Credit Certificate Transfer Program. Custodial Trust Company of Princeton, New Jersey, is interested in purchasing Celgene Corporation's unused tax credits for \$260,350.

Mr. Fede questioned whether, after purchasing the tax credits, Custodial Trust would have to fulfill the same job retention and other obligations as Celgene would have been obligated to meet under the tax credit program. He further questioned whether any checks had been conducted to determine whether Custodial Trust has any significant environmental, labor or other violations in the State. Discussion ensued about the statutory requirements of a company to which BRRAG tax credits are transferred and whether the Commission has the authority to perform checks on such a company. Mr. Sondermeyer suggested that the Board defer approval of the resolution until these questions have been answered.

Accordingly, Ms. Renaud will examine the issue and determine these answers. If it is necessary to vote on the matter before the next meeting in December, the Board may conduct a Board meeting by telephone to take action on the resolution.

Mr. Sondermeyer made a motion to hold NJC08-45 and Mr. Fede seconded the motion. The motion was approved by a 6 – 0 vote and the resolution was held.

Res. No. 08-46

Approves adoption of amendments to the Sales and Tax Exemption Program (STX): N.J.A.C. 12A: 2A-2.2, 2.11, 2.12

Mr. Moore discussed the resolution, which approves the adoption of amendments to the rules implementing the Sales Tax Exemption Program and submission to the Office of Administrative Law for publication in the New Jersey Register. Mr. Moore summarized the amendments, which revise the definitions section, modify one of the events of default and add a remedy for an event of recapture, and are designed to facilitate the administration of the program and address the economic realities of fluctuations in the number and composition of the workforce. Mr. Moore noted that these amendments came before the Board at its June 6, 2007 Board meeting, at which the Board authorized publication of the proposed amendments in the New Jersey Register. Finally, Mr. Moore summarized the comments received during the comment period and the Commission's response to those comments.

Ms. Davis made a motion to approve Resolution NJC08-46 and Mr. Fede seconded the motion. Motion was approved by a vote of 6 – 0.

**Res. No. 08-47 PDR Advisors, LLC – MWBE certification -
Approves Final Decision**

Nina Moseley, Director, described the resolution, which approves the Commission’s Final Decision on the application of PDR Advisors, LLC (PDR), a financial advisory business, for certification as a Minority-and Women-owned Business Enterprise (MWBE). Ms. Mosely explained that Ms. Austin, the applicant owner does not meet the statutory and regulatory requirements for MWBE certification, as she lacks the experience and expertise in the financial advisory business necessary to exercise operational control over the business. Accordingly, the recommendation is to approve the Final Decision to deny Ms. Austin’s MWBE application.

Brief discussion followed on the MWBE hearing process and the fact that this would constitute the first time the Board approves a Final Decision, as previously the Secretary of the Commission issued the Final Decision.

Ms. Oates made a motion to approve Resolution NJC08-47 and Mr. Fede seconded the motion. Motion was approved by a vote of 6 – 0.

Res. No. 08-48 Approves amendments to Operating Authority

Mr. Drennan explained that the amendment before the Board clarifies that the Board will be notified of all (non-technical) amendments to agreements and applications made by Commission Staff. In addition, an amendment in Section C.2 replaces the word “delta” with the synonym “change” for clarity.

Briefly discussed was the format in which the Board will be notified.

Ms. Davis made a motion to approve Resolution NJC08-48 and Mr. Fede seconded the motion. Motion was approved by a vote of 6 – 0.

Public Comment:

Mr. Drennan advised that there would be no Board meeting in November.

Adjournment:

Mr. Fede made a motion to adjourn the meeting and Ms. Oates seconded the motion. The motion was approved by a vote of 6 – 0 and the meeting was adjourned at 10:45 a.m.