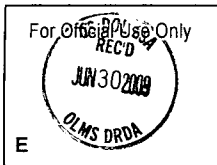


FORM LM-20

AGREEMENT AND ACTIVITIES REPORT

Form approved
Office of Management
and Budget
No. 1215-0188
Expires 11-30-2006



This report is mandatory under P.L. 86-257, as amended. Failure to comply may result in criminal prosecution, fines, or civil penalties as provided by 29 U.S.C. 439 or 440. Required of persons, including Labor Relations Consultants and Other Individuals and Organizations, Under Section 203(b) of the Labor-Management Reporting and Disclosure Act of 1959, as amended. (LMRDA)

READ THE INSTRUCTIONS CAREFULLY BEFORE PREPARING THIS REPORT.

1. File Number: C- 00633

399460

Person Filing

2. Name and mailing address (include ZIP Code):

Name Michael D Penn

Title Partner

Organization The Crossroads Group

P.O. Box, Bldg., Room No., if any

Street 63 Via Pico Plaza, Suite 505

City San Clemente

State California

ZIP Code + 4 92672

3. Any other address where records necessary to verify this report are kept:

Name

Title

Organization

P.O. Box, Bldg., Room No., if any

Street

City

State

ZIP Code + 4

4. Date fiscal year ends:

Dec / 31

5. Type of person:

a. ☐ Individual b. ☒ Partnership c. ☐ Corporation d. ☐ Other (Specify):

Nature of Agreement or Arrangement

6. Full name and address of employer with whom made (include ZIP Code):

Name Tony Brooks

Organization Sears Holdings Corporation

Trade Name, if any Sears Logistics Services

P.O. Box, Bldg., Room No., if any

Street 3333 Beverly Road, A3-156B-A

City Hoffman Estates

State Illinois

ZIP Code + 4 60179

7. Date entered into:

4 / 22 / 2009

8. Name of person(s) through whom made:

Name Tony Brooks

Name

Name

Name

Name

Signatures

Each of the undersigned declares, under penalty of perjury and other applicable penalties of law, that all of the information submitted in this report (including the information contained in any accompanying documents) has been examined by the signatory and is, to the best of the undersigned's knowledge and belief, true, correct, and complete. (See Section VII on penalties in the instructions.)

13. Signed Michael Dana Penn

President
(If other title, see
instructions)

Title Other (Specify)

Partner

14. Signed [Signature]

Treasurer
(If other title, see
instructions)

Title Other (Specify)

Partner

On 06/17/2009 818-999-5632

Date

Telephone Number

On 06/17/2009 949-248-0884

Date

Telephone Number

9. Check the appropriate box to indicate whether an object of the activities undertaken, is directly or indirectly:

- a. ☒ To persuade employees to exercise or not to exercise, or persuade employees as to the manner of exercising, the right to organize and bargain collectively through representatives of their own choosing.
- b. ☐ To supply an employer with information concerning the activities of employees or a labor organization in connection with a labor dispute involving such employer, except information for use solely in conjunction with an administrative or arbitral proceeding or a criminal or civil judicial proceeding.

10. Terms and conditions (Explain in detail; see instructions. Written agreements must be attached.):

Payment on a fee-for-service basis at the hourly rate of \$325.00 plus reasonable and customary expenses

(AGREEMENT ATTACHED)
ENCLOSED

Specific Activities to be Performed

11. For each activity, separately list in detail the information required (See instructions):

a. Nature of activity:

To advise employees of their Section 7 rights and the potential disadvantages of third-party representation

11.b. Period during which performed:

04/27/09 - 06/04/09

11.c. Extent performed:

Completed

11.d. Name and address through whom performed:

Name Michael D Penn

Organization The Crossroads Group

P.O. Box, Bldg., Room No., if any

Street 63 Via Pico Plaza, Suite 505

City San Clemente

State California

ZIP Code + 4 92672

Additional Name and address through whom performed, if any:

Name

Organization

P.O. Box, Bldg., Room No., if any

Street

City

State

ZIP Code + 4

12.a. Identify subject groups of employees:

All non-supervisory maintenance and warehouse employees, including plant clerical employees, at Sears Logistics Services in Stockton, California

12.b. Identify subject labor organizations:

IBT Local 439

CONSULTING SERVICES AGREEMENT

THIS AGREEMENT ("Agreement") is entered into as of *April 22, 2009*, ("Effective Date") by and between The Crossroads Group ("Consultant") and Sears Holdings Corporation ("Client").

Consultant represents that he is in the business of providing services in the area of labor relations and employment practices and agrees to provide services to Client as more fully described herein.

1. **SCOPE OF WORK**

Consultant shall provide consulting services ("Services") to Client on an as-needed basis and as more fully described on the attached Exhibit "A" ("Scope of Work").

2. **COMPENSATION**

Client shall pay to Consultant as compensation for those Services in connection with this Agreement the fee as specified on the attached Exhibit "B" ("Fee and Expense Schedule"). In addition, Client agrees to reimburse Consultant for expenses as provided in accordance with the fee schedule attached as Exhibit "B" ("Fee and Expense Schedule").

3. **TERM**

The term of this Agreement shall be for up to *(60) days*, commencing *April 22, 2009* and ending on or before *June 20, 2009*. Either party may terminate this Agreement without cause by giving thirty (30) days prior written notice to the other party pursuant to Section 11.

4. **CONFIDENTIALITY**

Consultant recognizes that many facets of Client's operations are valuable business secrets. It may be necessary for Consultant to utilize some of this information in order to work effectively. Further, Consultant acknowledges that material and information which has or will come into the possession of Consultant consists of confidential and proprietary data ("Confidential Information").

Consultant also recognizes that Confidential Information relating to the business plans disclosure of the Confidential Information could be detrimental to Client. The Confidential Information may be written, oral or electronic.

In consideration of the above, Consultant agrees that written, oral or electronic Confidential Information is confidential and that Consultant will not, at any time, disclose or convey such Information to third parties. Consultant further agrees that: (i) no copies shall be made of any Confidential Information supplied by Client without the written consent of Client; (ii) Consultant shall not make use of any Confidential Information received from Client for any purpose except that which is expressly contemplated by this Agreement; and (iii) this confidentiality restriction applies to Consultant's employees, agents, representatives and subcontractors. Consultant agrees to indemnify, defend and hold harmless Client against any loss or

damage resulting from the use or disclosure of any Confidential Information by Consultant. The obligations of this Agreement shall survive termination or expiration of this Agreement for a period of two (2) years or longer if mandated by state or federal law.

5. **CONSULTANT IS INDEPENDENT CONTRACTOR**

It is understood and agreed the Consultant is retained only for the purposes and to the extent set forth in this Agreement, and that the relationship of Consultant and Consultant employees, agents, or subcontractors to Client (exclusive of Client associates identified in Exhibit "A") during the term of this Agreement shall be that of independent contractors. All such persons shall at all times be the employees or agents of Consultant. Consultant shall have the sole and exclusive control over his employees or subcontractors who provide Services to Client hereunder, and over the labor and employee relations policies and policies relating to wages, hours, working conditions, or other conditions of employment of its employees, agents or subcontractors. Consultant shall have the sole and exclusive right to hire, transfer, suspend, layoff, recall, assign, discipline, adjust grievances and discharge said employees or subcontractors.

6. **PAYMENT OF CONSULTANT'S PERSONNEL**

Consultant agrees to be solely responsible for all salaries and other compensation of all Consultant employees, agents or subcontractors who provide Services to Client hereunder. Consultant further agrees that it will be solely responsible for making all necessary deductions and withholdings from his employees' salaries and other compensation, and for the payment of any and all contributions, taxes and assessments and agrees to comply with all other requirements for the Federal Social Security, State Unemployment Compensation and Federal Withholding of Income Tax Laws on all salary and other compensation of said employees or subcontractors.

7. **INDEMNIFICATION**

Consultant agrees that he will protect, defend, hold harmless and indemnify Client, its successors, assigns, directors, officers and employees, and their respective heirs and representatives from and against any and all third party claims, demands, actions, liabilities, damages, losses, fines, penalties, costs and expenses (including attorneys' fees) of any kind whatsoever (including without limitation of the foregoing, those relating to actual or alleged death of or injury to person and damage to property), actually or allegedly, directly or indirectly, arising or resulting from or connected with (a) Consultant's performance or failure of performance under this Agreement, excluding any actions brought by or through the NLRB or any other court of jurisdiction related to or resulting from such action; (b) all purchases, contracts, debts and/or obligations made by Consultant; (c) any act or omission by Consultant or any of Consultant's agents or employees, if such act is not within the scope of this Agreement, excluding actions attributable to Client; (d) the failure of Consultant to comply with any applicable law, ordinance, rule or regulation outside the scope of this Agreement, subject to the exclusions set forth in subparagraphs (a) and (c); and (e) inquiries or investigations of any governmental agency resulting from Consultant's performance of Services hereunder which are outside the scope of

this Agreement, subject to the exclusions set forth in subparagraphs (a) and (c). Notwithstanding anything contained in the foregoing, Consultant shall not be liable for damage to third parties which is actually or allegedly caused by the negligence or intentional action of Client, its agents, assigns, successors or employees. Further, Consultant shall not be liable for any claims, costs or attorneys' fees for conduct attributable to Client under any circumstances.

8. INSURANCE

Consultant shall secure and maintain in his name and at his sole expense the following policies of insurance from reputable companies satisfactory to Client and in amounts sufficient to fully protect Client and Consultant from any and all claims, demands, expenses or losses.

(a) If required by law, Workers' Compensation Insurance, with statutory limits, covering all costs, benefits and liability under State Workers' Compensation and similar laws which may accrue in favor of any person employed by Consultant; and if Workers' Compensation Insurance is secured and maintained, then Consultant shall also secure and maintain Employer's Liability Insurance with limits of not less than \$500,000 per occurrence. The policy shall contain a waiver of subrogation provision in favor of Client executed by the insurance carrier(s); (b) Motor Vehicle Liability Insurance with an Employer's Non-Ownership Liability Endorsement in Consultant's name. Limits shall be not less than \$1,000,000 combined single limits for property damage and bodily injury per occurrence.

Prior to execution of this Agreement, Consultant shall provide Client with certificate evidence of such policies, or at Client's request, copies of such policies. All such insurance policies shall provide that they may not be materially changed or cancelled without at least thirty (30) days prior written notice to Client. All such insurance coverage shall be primary and non-contributory. Any approval by Client of any insurance policies shall not relieve Consultant of any responsibility hereunder including, but not limited to, claims in excess of limits and coverage described above. Failure by Consultant to properly secure and maintain the coverages required by Client shall entitle Client to immediately terminate this Agreement.

9. THIRD PARTY CONTRACTS

Consultant shall have no authority to enter into any contract or otherwise obligate Client to any third party without written authorization from Client.

10. RECORDKEEPING

Consultant shall maintain records of his expenses and reimbursable items pertaining to Services on a generally recognized accounting basis and these records shall be made available to Client upon request.

11. NOTICES

Any notices which shall or may be given by either party to the other hereto, shall be given in writing by certified mail, return receipt requested, with postage prepaid, or by facsimile transmission or in person. Such notices shall be deemed given when received by the respective parties and shall be addressed as follows:

Notice to Client: *Sears Holdings Corporation*
 Attention: Tony Brooks
 3333 Beverly Rd.
 Hoffman Estates, IL 60179

Notice to Consultant: *The Crossroads Group*
 Attention: Michael Penn
 63 Via Pico Plaza, Suite 505
 San Clemente, CA 92672

12. SECURITY

Consultant agrees that Consultant employees, representatives, and agents, upon entering Client's premises shall, if required, sign in at the facility "Sign-In Log" and, if applicable, shall wear visible identification specifying Consultant name. The employees, representatives and agents shall be subject at all times to client security policies and procedures.

13. COMPLIANCE WITH APPLICABLE LAWS

Consultant agrees to comply with all federal, state and local laws, rules, regulations and orders applicable to Consultant's performance of the Services hereunder.

14. ASSIGNABILITY

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, no assignment hereof by either party shall be of any force or effect except with the prior written consent of the other party.

15. NON-EXCLUSIVE AGREEMENT

It is agreed by the parties hereto that this is not an exclusive agreement and that Client has the right to use or contract for the use of similar services from other consultants or providers. Likewise, Consultant has the right to provide and contract to provide services to other clients.

16. ADVERTISING RESTRAINTS

Consultant and Client agree that neither party without the express written consent of the other, will make any mention of this Agreement in any advertisement or promotional material, sales or marketing discussion or presentation whether written or oral, nor will either party make or cause to be made, any publicity release

concerning this Agreement or Services provided under the Agreement, with the exception of any disclosures required by any governmental agency by Consultant, its legal counsel or accountant.

17. NONWAIVER

The failure of either party to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Agreement or to exercise any right hereunder, shall not be construed as a waiver or relinquishment of the future performance of any rights, and the obligations of the party with respect to such future performance shall continue in full force and effect.

18. RIGHTS UPON TERMINATION

Upon the termination or other expiration of this Agreement, Consultant agrees to immediately return to Client all papers, materials, and other properties of Client held by Consultant relating to the Services performed hereunder.

19. INVALID PROVISION

Should any part of this Agreement, for any reason, be declared invalid, such decision shall not affect the validity of any remaining portion. Such remaining portion shall remain in force and effect as if this Agreement had been executed with the invalid provision eliminated.

20. GOVERNING LAWS

This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, excluding its conflict of law rules.

21. SURVIVAL

In the event of the termination or expiration of this Agreement, the provisions of this Agreement which by their nature extend beyond the expiration or termination of this Agreement shall remain in effect beyond such termination or expiration until fulfilled.

22. COMMUNICATIONS

Consultant agrees that all its written communication shall be first approved by SHC before being released.

23. ENTIRE AGREEMENT

This Agreement, including the Exhibits and all other documents, comprises the entire agreement between the parties and supersedes all prior agreements and understandings between the parties regarding the Services. This Agreement cannot be supplemented or changed except in writing, signed by duly authorized representatives of the parties.

IN WITNESS WHEREOF, Consultant and the Client have caused this Agreement to be executed by persons, duly authorized thereunder, as of the date first above stated.

The Crossroads Group

Sears Holdings Corporation

Michael Dana Penn

By: Michael Penn
Its: Partner

By: Tony Brooks
Its: Vice President, Logistics

Apr 22, 2009 9:42AM

The MayDay Group, Inc.

818-999-5630

page 7

IN WITNESS WHEREOF, Consultant and the Client have caused this Agreement to be executed by persons, duly authorized thereunder, as of the date first above stated.

The Crossroads Group

Michael Penn

By: Michael Penn

Its: Partner

Sears Holdings Corporation

Tony Brooks

By: Tony Brooks

Its: Vice President, Logistics

EXHIBIT "A"

SCOPE OF WORK

Position Summary: Labor Relations Consultant

Responsibilities: Consultant will provide Client with general Human Resources and Labor Relations services, including meeting with management and employees, both in groups and on a one-on-one basis, campaign and communication strategy and tactics, and any other services and/or advice necessary to assist Client in running a NLRB election campaign at their warehouse facility in Stockton, California.

Client has not made, and cannot make any representations or guarantees regarding the successful outcome of any matter related to this Agreement.

EXHIBIT "B"

FEE AND EXPENSE SCHEDULE

1. **Consultant fee:** \$325 per hour for Michael Penn's services; \$325 for Steve Beyer, partner, and \$275 per hour for Senior Associates, if their services are authorized by Client. All fees are charged on an hourly basis in minimum units of a quarter of an hour for all time expended on Client's behalf.

If Consultant is requested by Client, or if as a consequence of an assignment Consultant is required by judicial or administrative process, to participate, appear or testify in anticipation of, or during legal or dispute resolution proceedings of any kind during the period Consultant is providing services or thereafter, Consultant will reasonably comply with any such request or requirement based on advice of legal counsel. In the event that Consultant does so participate in any manner, the Client shall pay to Consultant all professional fees and other fees of Consultant in effect as well as the cost and expenses, including attorneys' fees, incurred in anticipation and resulting from such proceedings. These fees and expenses are in addition to any fees paid or owed for services performed or to be performed.

2. **Reimbursable expenses:** Reasonable and customary out-of-pocket expenses, including, but not limited to, airfare, hotel lodging, car rental, meals, parking, gas, and one-half travel time
3. **Invoicing:** Consultant will send Client invoices on a weekly basis, or as soon thereafter as is practicable; Client agrees to pay invoices within 60 days of receipt of the invoice.