

MINUTES OF THE SENATE COMMITTEE ON LABOR, INDUSTRY AND TOURISM

The meeting was called to order by Sen. Bill Morris at
Chairperson

1:30 ~~am~~/p.m. on March 3, 1983 in room 529-S of the Capitol.

All members were present except:
Sen. Burke and Sen. Chaney

Committee staff present:
Mark Burghart, Research Department
Bruce Kinzie, Revisor
Louise Cunningham, Secretary

Conferees appearing before the committee:
Jerry Powell, DHR, Employment Relations Administrator
Jim Grimes, Attorney, Kansas Personnel Services Council
Neal Brady, Assistant District Attorney, Consumer Fraud Division, Sedgwick Co.
Arnold Berman, Attorney, DHR

S.B. 374 - Concerning employment offices and agencies; relating to regulation thereof.

Mark Burghart explained the bill to the Committee. It would amend existing law dealing with the regulation of employment agencies. DHR cannot regulate these agencies if the employer was paying for service. The amendments would take care of the problems that would be discussed during the hearing.

Jerry Powell said they support S.B. 374. He had been contacted by Neal Brady from Wichita concerning an office in Kansas that was seeking out people who were looking for work. This office would refer them to private employment agencies outside of the state. The employee would not be charged in Kansas but the outside employment agency would charge the employee and the referral service would get a kickback. The amendments to the private employment agency act would handle this. A copy of his statement is attached. (Attachment 1).

Neal Brady, Assistant District Attorney, Sedgwick County, said the present law was enacted in 1911 and amendments to the law have created ambiguous language and the result is that it does not control the business it was intended to control. These referral agencies do not secure employment for the applicant. No effort is made to place them in specific jobs. Mr. Brady submitted an article from the Wichita Eagle dated January 23, 1983 concerning job listing services (Attachment 2) and a copy of the want ads for these referral agencies (Attachment 3). S.B. 374 would protect the citizens of Kansas who are most vulnerable, those that are seeking employment. He said he has had about twelve complaints on this issue but most people will not file a complaint with the Consumer Fraud Division and he feels the problem is widespread. These agencies are preying on the adversity of others. Sometimes people answering the ads receive a government pamphlet that is free for the asking.

S.B. 374 would be specific in what is considered to be an employment agency. It should state specifically that if no employment is secured as a direct result of the agency, no fee shall be charged.

He said the penalty section has not been revised in 60 years and felt that the penalty should be brought up to date and make it a Class A misdemeanor.

Jim Grimes, Attorney, Kansas Personnel Services Council, said they were actively involved in 1971 in writing the Private Employment Agency Act and the group had voluntarily taken out licenses. He said this was not a licensing problem but rather a consumer fraud problem. The problem should not be allowed to continue but there should be another answer to the problem.

A motion was made by Sen. Feleciano conceptually to exclude the employment agencies that charge the employers a fee, such as those represented by Mr. Grimes, and radio and TV stations that do job searches as a public service. Motion was seconded by Sen. Karr. Motion carried.

A motion was made by Sen. Feleciano to strike Section 3. Seconded by Sen. Werts. Motion carried.

A motion was made by Sen. Feleciano to conceptually make the penalties a Class A misdemeanor. Motion did not receive a second.

A motion was made by Sen. Feleciano to recommend S.B. 374 as amended favorably for passage. Seconded by Sen. Karr. Motion carried.

Arnold Berman, DHR, explained to the Committee the procedure of the voluntary quit process. He submitted a chart showing how the claims move through the elaborate appeals process. (Attachment 4). He said over the past six months 67 appeals were found in favor of the claimant and 47 were found in favor of the employer. Some comments had been made during the public hearings that the rulings were always made in favor of the employee but statistics do not bear that out. Each year about 50 to 60 cases go to the District Court. The Court has affirmed the Department's decisions in 85% of those cases. He said misconceptions had been presented to the Committee and he offered his explanations.

Meeting was adjourned.

SENATE LABOR, INDUSTRY & TOURISM COMMITTEE

Date 3-3 Place 529-S Time 1:30

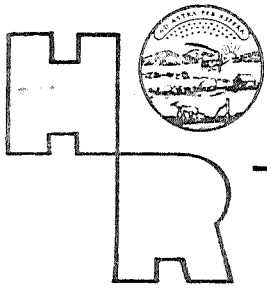
GUEST LIST

NAME

ADDRESS

ORGANIZATION

| | | |
|----------------------|---------------------------------------|--------------------------------|
| Rocco Pilshaw | Lawrence | KU |
| Marvin Tangney | 3715 SW. 24th St 66614 | Ks. Pers. Services Com. |
| Kirk Hawkins | 700 Ks. Ave., Topeka | Ks. Personnel Services Council |
| Keith V. Bosker | 1035 S. Topeka Ave Topeka - Ks. 66642 | Ks. Personnel Services Council |
| James S. Grimes, Jr. | 1100 First N.B. Topeka 66603 | " " " |
| Lanny Brown | 10355 Topeka | Kans Pers Svs Council |
| Neal Brady | Sec'y City PA's office | Wichita, KS |
| Wayne Hundley | AG | Topeka |
| Jerry Powell | TOPEKA | DHR LABOR-RELAT. |
| Tom Fitzgerald | TOPEKA | DHR LABOR-RELAT. |
| Opal Dunnington | 1818 Washburn Topeka | Ks. Trial Lawyers |
| Mold Ben | Topeka | DHR |



512 West 6th, Topeka, Kansas 66603-3178

913-296-3094

PRIVATE EMPLOYMENT AGENCY ACT - SENATE BILL 374

Mister Chairman and members of the Committee. I appreciate the opportunity to appear here today in support of Senate Bill 374. As Employment Relations Administrator for the Division of Labor-Management Relations and Employment Standards, Department of Human Resources, I have worked with the Private Employment Agency Act for the past four years. This statute requires any business operating as a Private Employment Agency to obtain a license from our department. The license fee is ten dollars (\$10.00) a year for agencies operating in cities of less than 20,000 inhabitants and twenty-five dollars (\$25.00) for an agency operating in cities with more than 20,000 inhabitants. The statute further provides that a Private Employment Agency can make no charge for its services of an applicant for employment other than a two dollars (\$2.00) registration fee. Agencies in Kansas, then, derive their revenue from the business or industry hiring an applicant for employment. As of July 1, 1982 there were sixty-two licensed agencies operating in Kansas. Fifty-three of this number were twenty-five dollar (\$25.00) licenses and seven were ten dollar (\$10.00) licenses.

Over the past two years our department has received approximately one complaint or inquiry per month relating to an agency operating without a license. Our policy has been to contact any business which appears to be operating as a Private Employment Agency in order to advise the owner or operator of the Kansas Private Employment Agency law. In most cases the owners or operators have been very cooperative. That is, they have either purchased a license or clearly shown us that their operation did not fit the definition of Private Employment Agency as contained in the statute.

With the high unemployment rate that we are and have been experiencing for the past year a number of new agencies have opened. Numerous "employment services" have also opened their doors. I believe the Sedgwick County District Attorney office has had some experience with at least one type of these employment services and they are scheduled to appear before this Committee. Another type of employment service operating in the State is what we have labeled referral services. They refer applicants for employment to Private Employment Agencies located in other states. The Private Employment Agency then often charges the applicant for their services. These referral services located in Kansas make no charge for their services to the applicant. Rather they are paid a fee by the Private Employment Agency located in another state. Therefore, it is questionable whether these referral services fall within the definition of Private Employment Agencies found in our Kansas law.

Atch. 1

Approximately one year ago I was asked to consider a district court decision as it related to the licensing requirement of Private Employment Agencies. This decision stated that a Private Employment Agency need not be licensed unless a charge was made of an applicant for employment. As a result of my conversations with various individuals who were operating Private Employment Agencies I requested an Attorney General's Opinion on this question. The Attorney General rendered an opinion which concurred with the district court decision. After receiving the opinion I notified all Private Employment Agencies that they need not purchase a license if they did not charge a fee of an applicant for employment. As of today, we are licensing twenty-one Private Employment Agencies.

The big problem with the Act is the definition of a Private Employment Agency. I believe the definition of the Private Employment Agency found in Senate Bill 374 will remedy those problems and I urge this Committee to recommend that Senate Bill 374 be enacted.

Thank you again for the opportunity to appear and your attention.

lm

Jerry Powell, Employment Relations
Administrator
Department of Human Resources
512 W. 6th St., Topeka, KS
March 3, 1983

Job Listing Services Are Legal — But Read the Fine Print

"READ THE FOLLOWING CAREFULLY BEFORE SIGNING," says the bold-faced type above the fine print at the bottom of the small, one-page contract.

There are 16 lines of fine print.

Larry Webb wrote it all himself.

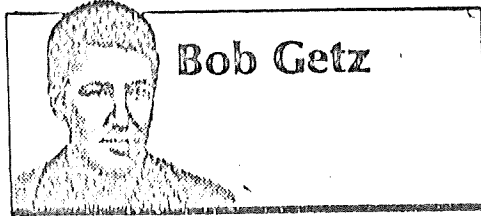
Tolstoy might not have put as much sweat into "War and Peace" as Larry Webb put into that fine print.

"You wouldn't believe how much time I spent writing that, getting it just right," Larry Webb said.

A guy can't be too careful. Especially in Larry Webb's business.

Larry Webb runs Midwest Referral, a job listing service. You pay 40 bucks, and for six months you have access to a list of jobs (many of which, as the contract itself says, appear in the newspaper want ads). The list is updated "on a timely basis."

No job is promised. No help finding a job is promised. Nothing is promised except access to a list of jobs you check out on your own. Webb doesn't hesitate to say, too, that more than half the listings appear



Bob Getz

elsewhere, or have appeared elsewhere.

JOB LISTINGS services. Almost anyone can start one. *Don't need no license, don't need no certificates, don't need no diplomas, don't really need nothing much at all, really, except a telephone, and, of course, a place to keep the money.*

"I will admit the industry doesn't have a very good reputation," said Webb, who has been in Wichita three years, and feels he has been hurt by other such services that came to town, stayed only a little while, and disappeared.

Larry Webb, 29, is quite a guy.

Young Wichita businessman extraordin-

aire. Married. Three kids. Has ties in Wichita that go way back. Been around, too — Seattle, Phoenix, Salt Lake City, other places.

No Jaycee type, though, Larry Webb. No blue, three-piece, vested, pinstriped, wing-tipped, chirping junior exec, not Larry.

UNRULY, CURLY brown hair. Jeans. Scuffed boots.

Used to be a dishwasher. Used to work on a garbage truck. Went to work for a listings service and learned the ropes. Then came to Wichita and went into the business for himself in 1979.

And he said Midwest Referral grossed \$250,000 last year.

Midwest Referral doesn't advertise its service. It advertises specific jobs. When people call on a particular job ("We get 200-300 calls a day, usually"), they are pretty much told all the basic information up front: That in order to get the details on a job, they first have to pay \$40 for the six-

months service. If people are interested, they go into the office on East Harry, pay, and get to look at and copy of the job listings.

What people are not voluntarily told are how many others also paid \$40 to check out the same jobs, or what their chances are against the others. You pay the \$40, you're on your own. Sorry, no refunds.

"**YEAH, THERE** might be 15 people who pay \$40 to get the same job," Webb said. "If they ask how many others there are, we tell them. And most people who know what they're doing will ask. But it doesn't make any difference if a hundred go out on a job, because it increases the chances of a business filling a job with a good worker."

But it isn't the business that pays the \$40 fee.

"The only thing that can put me out of business," said Webb, "is misrepresentation."

To Webb's thinking, pretty good proof he's playing by the rules and not ripping

people off is, "I don't get complaints. And until the complaints start coming in, I think I must be doing something right."

The Better Business Bureau hasn't received many complaints, either, about Midwest Referral.

BUT THE bureau's Rollin McCarty said, "For that small an item (a \$40 service), we usually won't get that many complaints. People don't want to bother."

Richard Ballinger of the District Attorney's Consumer Fraud division said, "What they do isn't illegal. What consumers have to watch out for is misrepresentation of services — that's where our office would get involved. The consumer needs to know what he is paying for."

Said Larry Webb, "I think the majority of people who come in here feel they get their money's worth."

Bob Rowan, a unemployed carpenter with a bachelor's degree in philosophy, didn't. We'll get to Rowan, and other things, Monday.

Wichita Eagle & Beacon ~~at~~ Sunday Jan 23, 1983 Page 15

Atch. 2

Job Listing Service's Customers Happy — Or Just Wiser?

Just for the record (and picking up where we left off Sunday), Larry Webb does not go around wearing a halo, he does not work in heavenly white robes, he does not have glorious silver wings protruding from the back of his shirt, nor does he walk around strumming soulful celestial tunes on a golden harp.

No, Larry Webb is no angel.

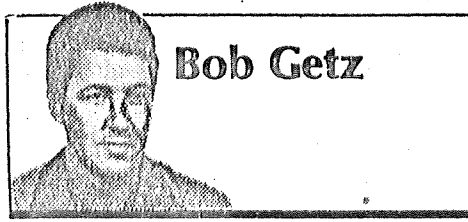
I mention this not to insult or demean Larry Webb, but only so no one will get the wrong impression.

Because the way Webb talks sometimes, might think he's a leading candidate sainthood and savior to the unemployed.

Larry Webb runs Midwest Referral, a job listings service, in Wichita. Been here three years. Said he grossed about \$250,000 in 1982.

The way job listing services work, you pay a \$40 fee to gain access for six months to job listings. Most of the listings either appear or have appeared elsewhere, primarily in newspaper want ads.

Midwest Referral promises nothing. It



Bob Getz

doesn't promise anybody a job. It doesn't promise to help anybody find a job. It doesn't even promise to screen you so you don't waste time checking out jobs you have no chance of getting.

All Midwest Referral really says it will do for the 40 bucks is keep its job listings updated "on a timely basis."

Midwest Referral promises so little, in fact, that some people might think it's the next best thing to a license to kill.

And if that observation sounds libelous, listen to what Larry Webb said himself:

"I don't have to give anybody any services, and I don't have to give anybody's money back."

Webb said, "The only thing that can put

me out of business is misrepresentation."

Webb insists that Midwest Referral has had lots of satisfied customers, because he says he gets virtually no complaints and rarely sees customers a second time after they leave his office. That leads him to conclude most people find jobs as a result of the listings.

Maybe they do.

But Rollin McCartor of the Better Business Bureau says people who think they've been suckered out of relatively small amounts like \$40 aren't likely to complain — especially when they know they've signed a contract that promised nothing and said "no refunds."

Webb says, "I think the majority feel they get their money's worth. Yeah, there will be 15 people who pay \$40 to get the same job. But people understand. If you apply for a job and somebody else is better qualified, you probably won't get it. I help the majority of people who come in here. I know I do."

Bob Rowan, 44, a carpenter by trade with a degree in philosophy, doesn't feel

like Midwest Referral helped him a whole lot.

Rowan paid \$40 to check out a carpentry job and get the listings. Turned out that he was only one of a number of others from Midwest Referral who went out to check the job, and they all discovered that the job had been filled three days before, *the first day it ran in the Eagle-Beacon want ads.*

Webb said this was a result of a misunderstanding. He said the reason the listing (Lippincott Cabinet & Trim) ran three days after the job was filled was because Vicki Lippincott told him she'd taken the phone off the hook for three days. Webb said his people tried to check but couldn't get through.

Denying she told Webb any such thing, Lippincott said, "How could we operate a business with the phone off the hook for three days?"

Likely, as concerned as Webb is about working within the still-lucrative limits of the law, his people did make a periodic

effort to contact Lippincott. But nasty skeptics might wonder how often such profitable mix-ups occur.

Bob Rowan said, "Essentially, I've written it off as a mistake."

Seems that after the initial job listing didn't pan out, whenever Rowan phoned to see if there were any new listings in his field, the jobs he was told about had been in the newspaper.

"Although it is not blatantly fraudulent," Rowan said, "they are providing a misservice more than anything else."

Rowan wouldn't have complained. But his wife, Barbara, did. To the Better Business Bureau. And to Consumer Fraud.

Said Richard Ballinger of the Consumer Fraud office, "We are proposing legislation where these agencies would be controlled. Right now there are no state controls for these services."

And Larry Webb, denying that he's exploiting the unemployed and desperate, said, "I don't think it's right to say I'm using the times to profit off the unemployed. That would be real rude."

Wichita Eagle & Beacon Monday January 24, 1983 Page 1C

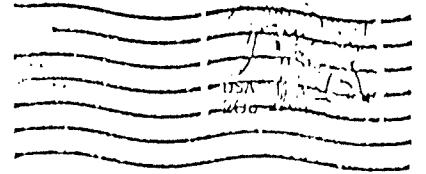
2-18-83

Job Search
P.O. Box 4559-A, 4559-C
Wichita Kansas 67204

Please send me your "current
job referral listings" as
advertized in the classified ads
section of the Wichita Eagle-Beacon
newspaper (page 8E), Sunday,
February 13, 1983. Enclosed is 8
one dollar bills as requested in your
ads.

145 South Volusia
Wichita Kansas
67211

P.O. Box 4559
Wichita, Ks 67204



145 S. Volutsia
Wichita, Ks 67211

INFO

83-025

JOB SEARCH

JOB SEARCH NEWSLETTER
P.O. BOX 4559
WICHITA, KS 67204

Our job listings are continuously updated
and are issued bi-weekly.

SUGESSTION: Send in your application/
resume to any companies that may need
your skills. (Requests for engineers
and designers would appear to suggest
forthcoming openings in manufacturing
and production.)

(NOTE: This newsletter is sold as a
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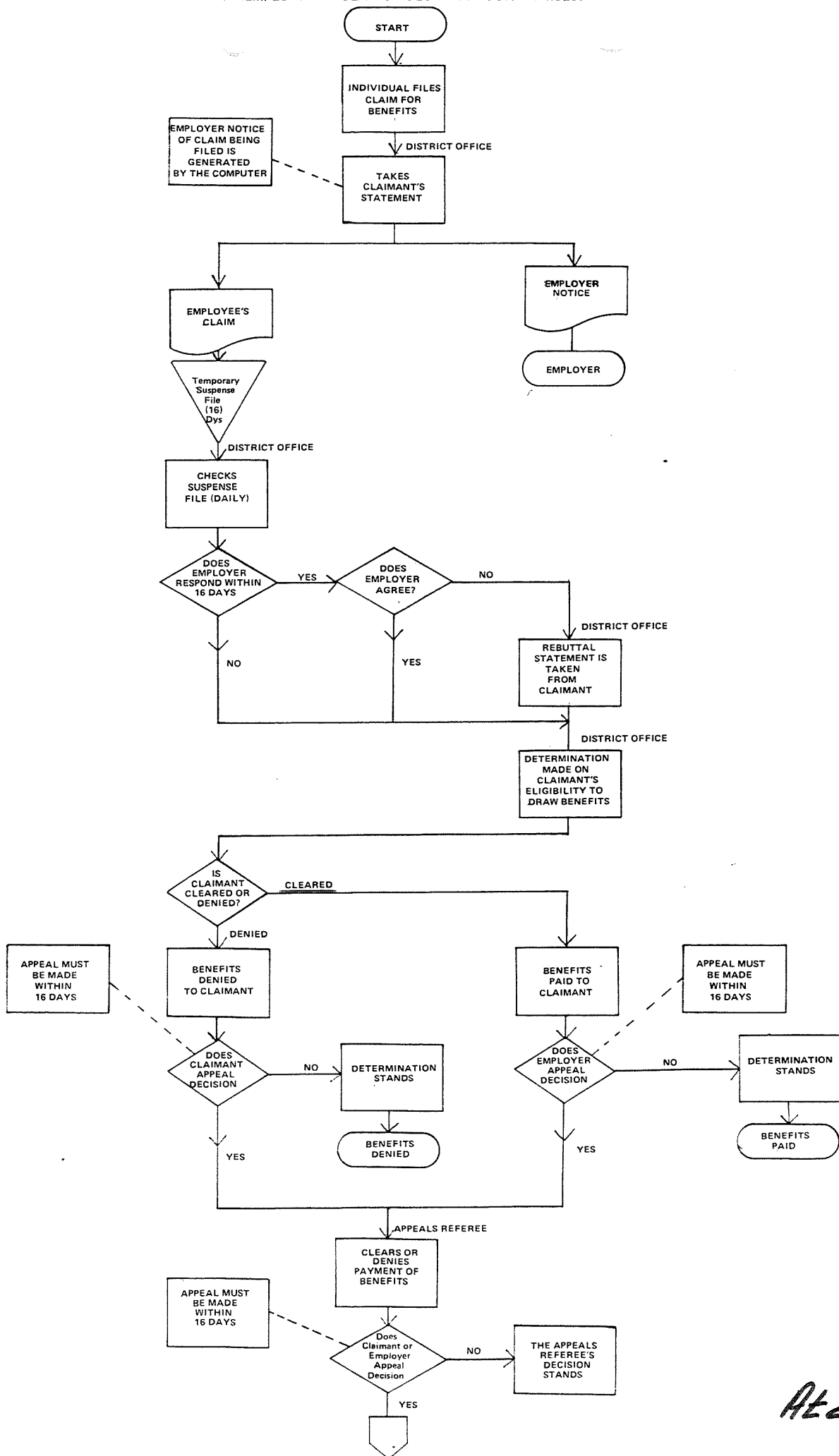
Attached are accumulated recent list-
ings of job availabilities. Some may
have been filled.

GOOD LUCK IN JOB HUNTING!!!

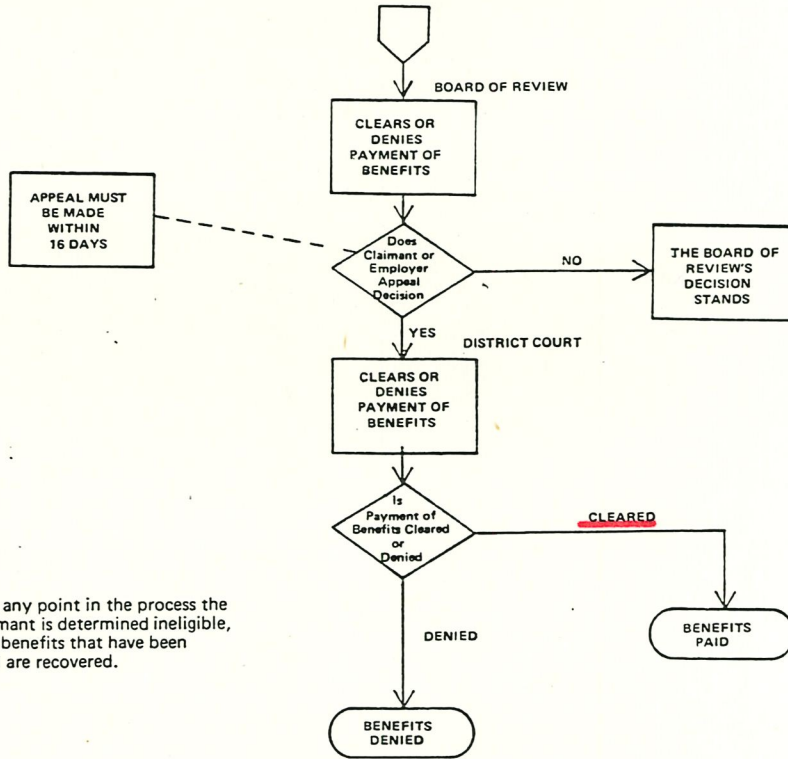
| | |
|--|---|
| BEECH AIRCRAFT CORP PO Box 9631 Boulder, CO 80301 | *Non-Destruct Test Specialist 5 yr exp Penetrant level 2 & Radiographic level 2 |
| A.E. CONTRACT STA. 3 PO 31431 Denver, CO 80201 | *Assembler or Electro Tech, computer equip |
| C.A. NORCREN CO 5400 S Delaware Littleton, CO 80120 | *Assemblers, simple measurement & blueprint reading req |
| HOUSTON, TX 799-9220 | *Truck Driver/Warehouseman |
| Houston, TX 465-8271 | *Warehouse Help, valid comm TDL |
| Houston, TX 729-2820 | *Warehouseman, exp knowledge A/S materials |
| ASTROWORLD OFFICE Personnel Office 9001 Kirby Houston, TX 77054 | *Warehouse Supervisor, H/S+2 yr exp supervisory skills |
| Houston Chronicle Box C-5217 801 Texas Ave Houston, TX 77002 | *Sewing Mach Operators, exp |
| BASLER ELECTRIC CIRCUITS (512-352-7633) Houston, TX | *Shift Foreman, PCB |
| ELTRON ELECTRIC CO INC 4610 Idaho Houston, TX 77021 | *Shop Superintendent, exp all aspects elec moter & transformer repair |
| Houston, TX 645-4276 | *Superintendent, plastics fiber- glass & fabrication |
| Houston Chronicle Box C-5217 801 Texas Ave Houston, TX 77002 | *Supervisor, Mfg, mechanically inclined |
| Chronicle Box 183-X 801 Texas Ave Houston, TX 77002 | *Warehouse Foreman, working supervisor & keep records |
| Houston, TX 479-3491 | *Machinist, job shop exp bridgect & lathes |
| NEWCOMB SPRING OF TEXAS 2831 Satsuma Dr Dallas, TX 75229 | *Collar-Set Up Person, exp (214-241-6791) |
| Chronicle Box C-5129 801 Texas Ave Houston, TX 77002 | *Assembler & Tester, Electr-Mechan |
| PO Box 42800 Houston, TX 77042 | *Machine Repairman, 5-yr exp repair mill, lathes |
| Houston, TX 470-2158 | *Production Supervisor, cabinet mfg plastic laminate, prod machinery |
| Houston, TX 467-7061 | *Cabinet Maker, furn mfg |
| Houston, TX 931-7272 | *Warehouseman, exp ship/rec |
| INDUSTRIAL RELATIONS PO Box 1477 Houston, TX 77251 | *Expeditior/Draftsman-Trainee 2 yr tech exp or equiv. expidite tooling & grow into drafting |
| CBS TOYS 500 Harmon Meadow Blvd Secaucus, New Jersey 07094 | *Mold Designers, 5-yr exp Inj & blow |

UNEMPLOYMENT CLAIMS VOLUNTARY QUIT PROCESS

4



Atch. 4



NOTE: If at any point in the process the claimant is determined ineligible, any benefits that have been paid are recovered.