B.C.D. 03-35

EMPLOYER STATUS DETERMINATION
Emergent Group, Inc.

APR 1 0 2003

This is the decision of the Railroad Retirement Board regarding the continued status of the Emergent Group, Inc., as an employer under the Railroad Retirement Act (45 U.S.C. § 231, et seq.) (RRA) and the Railroad Unemployment Insurance Act (45 U.S.C. § 351, et seq.) (RUIA).

National Railway Utilization Corporation was held to be an employer under the Acts effective April 1, 1977 (B.A. Number 2244). As of August 23, 1991, its name was changed to Emergent Group, Inc. The Pickens Railway Company (B.A. No. 5564) purchased rail assets, including the name, Pickens Railway, from Emergent Group in May 1996. Emergent Group has never reported rail service. Its name is now HomeGold, Inc., and it has no rail-related operations.

Section 202.11 of the Board's regulations provides that:

> The employer status of any company or person shall terminate whenever such company or person loses any of the characteristics essential to the existence of an employer status.

Through the sale of rail assets and its cessation of rail operations, Emergent Group has lost the characteristics essential to the existence of an employer status. Accordingly, the Board holds that Emergent Group ceased to be an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts effective with the close of business on May 31, 1996. Cf. Rev Ruling 82-99, 1982-2 C.B. 154, wherein the Internal Revenue Service ruled that a railroad ceases to be an employer subject to taxes under the Railroad Retirement Tax Act when the railroad's employees stop performing services in connection with the railroad's carrier activities.

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