



11-10-03

FILED

DEPARTMENT OF FINANCIAL SERVICES

JAN 27 2004

Division of Administrative Hearings

FILED

Date 7-23-04

Case No. 02-164-D1-02

Treasurer and
Insurance Commissioner
Docketed by: *[Signature]*

TOM GALLAGHER
CHIEF FINANCIAL OFFICER

IN THE MATTER OF:

WOOD-HOPKINS CONTRACTING, LLC

_____ /

AT

FINAL ORDER

03-0926
SFH-CWS

This cause came on for consideration of and final agency action on the Recommended Final Order filed on November 11, 2003, after formal hearing conducted on September 3, 2003. Wood-Hopkins Contracting, LLC filed exceptions on November 25, 2003.

RULINGS ON THE EXCEPTIONS

Although the exceptions are posited as three in number, all are bound together by the common contentions that the Worker's Compensation law should be interpreted to state that an employer's duty to provide worker's compensation to its employees arises only after an employee is injured and makes a claim for compensation, and that an employer's duty to provide compensation is satisfied if any required compensation is provided only after a court of last and competent jurisdiction determines against the employer's worker's compensation carrier that it is estopped from denying coverage and compensation to the claimant employee and must then, and only then, do so.

That contention, if accepted, would allow employers not to contract for worker's compensation insurance coverage until an injured employee made a claim against the

employer, and would then subject that and other claims to years of litigation to determine whether the carrier was estopped from denying coverage and compensation to the claimant employee. That result is contrary to the expressed intent of the legislature.

The result suggest by Wood-Hopkins would also defeat the intent of the Legislature, forthrightly expressed in Section 440.015, Fla. Stat., "that the Worker's Compensation Law be interpreted so as to assure the quick and efficient delivery of disability and medical benefits to an injured worker and to facilitate the worker's return to gainful reemployment at a reasonable cost to the employer." That same statute further provides: "It is the intent of the Legislature to ensure the prompt delivery of benefits to the injured worker. Therefore an efficient and self-executing system must be created which is not an economic or administrative burden." Moreover, the Legislature has expressly directed this Department to administer the Worker's Compensation Law "in a manner which facilitates the self-execution of the system and the process of ensuring a prompt and cost effective delivery of payments." Section 440.015, Fla. Stat.

Subjecting claims and claimants to the process advocated in the exceptions would substantially frustrate (if not totally defeat) that clearly expressed intent, and result in woefully delayed benefits, a bloated, unduly expensive and inefficient system, executed not internally but through time consuming judicial declarations.

In its exceptions, Wood-Hopkins argues that Chapter 440 does not require the employer to obtain insurance but only requires the employer to secure the payment of compensation. That assertion is contrary to the express mandate of Section

440.38(1)(a), Florida Statutes that the payment of compensation be secured by insuring and keeping insured the payment of the such compensation.

Accordingly, the exceptions are rejected.

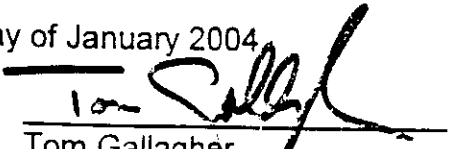
Having reviewed the record, including the transcript of proceedings, and being otherwise fully apprised in all material premises,

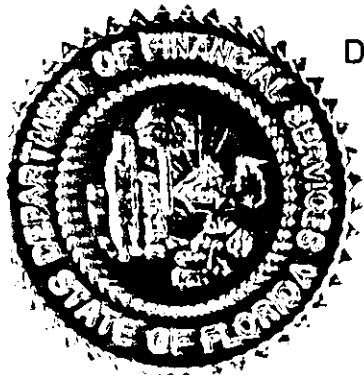
IT IS HEREBY ORDERED that the Findings of Fact made by the Administrative Law Judge are adopted as the Department's Findings of Fact, and that the Conclusions of Law reached by the Administrative Law Judge are adopted as the Department's Conclusion of Law.

IT IS HEREBY FURTHER ORDERED that the Recommendation made by the Administrative Law Judge is adopted by the Department, and that Respondent Wood-Hopkins Contracting, LLC., is directed to pay the sum of \$423,811.72 to the Department within thirty days from the date hereof, said sum to thereafter bear interest at the rate of 9% per anum until fully paid.

IT IS HEREBY FURTHER ORDERED that the Stop Work And Penalty Assessment Order entered by the Division of Worker's Compensation is affirmed, and that Wood-Hopkins Contracting, LLC., shall cease all business operations unless and until it provides evidence satisfactory to the Division of Worker's Compensation of having now complied with the workers compensation law by securing the necessary worker's compensation coverage for covered employees and, pursuant to Section 440.107(7)(a), Florida Statutes, paid the civil penalty imposed herein.

DONE AND ORDERED this 21st day of January 2004


Tom Gallagher,
Chief Financial Officer



XC: D. Andrew Byrne
1358 Thomaswood Drive
Tallahassee, FL 32308

John M. Iriye
Department of Financial Services
Division of Workers' Compensation
200 East Gaines Street
Tallahassee, Fl. 32399-4229