

12-4-03



DEPARTMENT OF FINANCIAL SERVICES

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DIVISION OF
ADMINISTRATIVE
HEARINGS

AP

03-0928

Commissioner
James M. ...

TOM GALLAGHER
CHIEF FINANCIAL OFFICER

IN THE MATTER OF:

CASE NO: 65339-03-WC

BERISFORD CHAMPAGNIE
_____ /

PMK-Clos

FINAL ORDER

THIS CAUSE came on for consideration and final agency action. On December 18, 2002, a Stop Work and Penalty Assessment Order was issued by the Department of Insurance, now known as the Department of Financial Services, Division of Workers' Compensation (hereinafter referred to as the "Department"), directing Berisford Champagnie (hereinafter referred to as the "Respondent") to stop work until he secures payment of worker's compensation for his employees and assessing a \$1,100 penalty. The Respondent timely filed a request for a proceeding to contest the Stop Work and Penalty Assessment Order, pursuant to Section 120.57(1), Florida Statutes. Pursuant to notice, the matter was heard before P. Michael Ruff, Administrative Law Judge, Division of Administrative Hearings, on July 30, 2003.

After consideration of the record and argument presented at hearing, the Administrative Law Judge issued his Recommended Order on December 4, 2003. (Attached as Exhibit A). The Administrative Law Judge recommended that the Department enter a Final Order directing Respondent to stop work and cease operations until such time as he secures workers' compensation coverage for his employees and directing that the Respondent pay a penalty in the amount of \$1,100.00.

Neither party filed exceptions to the Recommended Order.

Upon careful consideration of the record, the submissions of the parties, and being otherwise fully advised in the premises, it is ORDERED:

1. The Findings of Fact of the Administrative Law Judge are adopted in full as the Department's Findings of Fact.

2. Conclusion of Law #14 fails to clearly reflect the statutory requirement that the Stop Work Order and Penalty Assessment Order is to remain in effect until the \$1,100.00 assessed penalty has been paid. In order to clarify this requirement, the last sentence of Conclusion of Law #14 is amended as follows: "Thus the Respondent should cease operations in accordance with the Stop Work and Penalty Assessment Order until such time as he secures workers' compensation coverage and pays the assessed penalty in accordance with Sections 440.107(5) and 440.107(7), Florida Statutes (2002)." This Conclusion of Law is as or more reasonable than the original Conclusion of Law #10.

3. With the exception of the amendment referenced above, the Conclusions of Law of the Administrative Law Judge are adopted in full as the Department's Conclusions of Law.

4. The Administrative Law Judge's recommendation that the Department enter a Final Order directing Respondent to stop work and cease operations until such time as he secures workers' compensation coverage for employees and directing that the Respondent pay a penalty in the amount of \$1,100 is approved and accepted as being the appropriate disposition of this case.

ACCORDINGLY, it is ORDERED that the Respondent, BERISFORD CHAMPAGNIE, comply with the Stop Work and Penalty Order and remit a civil penalty in the amount of One

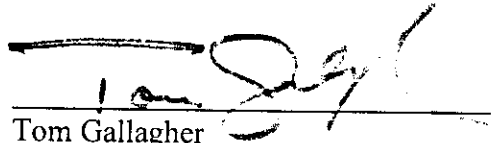
Thousand, One Hundred Dollars (\$1,100.00) to the Department of Financial Services, Division of Workers' Compensation Order.

NOTICE OF RIGHTS

Any party to these proceedings adversely affected by this Order is entitled to seek review of the Order pursuant to Section 120.68, Florida Statutes, and Rule 9.110, Fla.R.App.P. Review proceedings must be instituted by filing a petition or Notice of Appeal with the General Counsel, acting as the agency clerk, at 200 East Gaines Street, Tallahassee, FL 32399-0333, and a copy of the same and the filing fee with the appropriate District Court of Appeal within thirty (30) days of the rendition of this Order.

DONE and ORDERED this 29th day of January, 2004.




Tom Gallagher
Chief Financial Officer

COPIES FURNISHED TO:

P. Michael Ruff
Administrative Law Judge
Division of Administrative Hearings
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