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DEPARTMENT OF FINANCIAL SERVICES

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DIVISION OF ADMINISTRATIVE HEARINGS  
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MAR 18 2004

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

03-1757 LPS-CL05

TOM GALLAGHER  
CHIEF FINANCIAL OFFICER

IN THE MATTER OF:

AT

Case No. 74322-04-WC

SUSIE RIOPELLE

FINAL ORDER

This cause came on before Chief Financial Officer Tom Gallagher, as head of the Department of Financial Services (the Department), for consideration of and final agency action on the Recommended Order issued herein by Administrative Law Judge Lawrence P. Stevenson on January 16, 2004, after a formal hearing conducted pursuant to Section 120.57(1), Fla. Stat. Respondent Riopelle filed five Exceptions on January 27, 2004, and the Department responded on February 4, 2004.

Respondent's first exception regarding the matter of a continuance is immaterial to the findings, conclusions, and recommendation set forth in the Recommended Order, and is therefore accorded no weight.

Respondent's second and third exceptions are mere disagreements with findings, without explanation, or citation to the record or to authority. There is ample record testimony to support the challenged findings. Therefore, the exceptions are rejected.

Respondent's fourth exception contends that the ALJ erred by not considering whether certain named persons were sole proprietors and therefore not employees.

This exception is belied by ample record testimony and analysis of that testimony showing that those persons were not sole proprietors, and were dependent on equipment owned and maintained by Respondent Riopelle to perform their work. Moreover, Respondent produced only dubious testimony and post-dated documentation to assert the existence of independent contractor status for the persons in question. There is ample record testimony to support the conclusion that those persons were employees. Accordingly, Respondent's fourth exception is rejected.

Respondent's fifth exception challenges the conclusion that certain named persons failed at hearing to establish themselves as independent contractors. This exception is unaccompanied by any citation to the record or authority. There is ample record testimony to support the challenged conclusion. Accordingly, the fifth exception is 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.

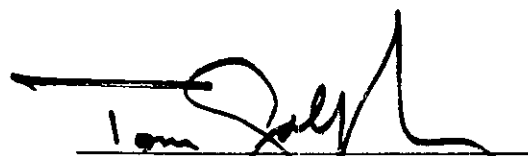
IT IS HEREBY FURTHER ORDERED that the Recommendation made by the Administrative Law Judge is adopted by the Department, and that Respondent Susie Riopelle is directed to pay the sum of \$21,100 to the Department within thirty days from the date hereof, said sum to thereafter bear interest at the rate of 7% per anum until fully paid.

IT IS HEREBY FURTHER ORDERED that the Second Amended Stop Work And Penalty Assessment Order entered by the Division of Worker's Compensation is affirmed, and that Susie Riopelle shall cease all business operations unless and until she 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.

#### NOTICE OF RIGHTS

Any party to these proceedings adversely affected by this Order is entitled to seek review of this 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 612 Larson Building, Tallahassee, Florida, and a copy of the same with the appropriate district court of appeal within thirty (30) days of rendition of this Order.

DONE AND ORDERED this 18 day of March, 2004.

  
Tom Gallagher,  
Chief Financial Officer

XC: David Hawkins  
Randall O. Reder