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**FLORIDA**  
DEPARTMENT OF  
**FINANCIAL SERVICES**



**FILED**

OCT 10 2005

**TOM GALLAGHER**  
CHIEF FINANCIAL OFFICER  
STATE OF FLORIDA

Chief Financial Officer  
Docketed by: *[Signature]*

IN THE MATTER OF:

COMMERCIAL CARRIER CORPORATION

DFS CASE NO. 63190-02-WC  
DOAH Case No. 04-2384

CONSENT ORDER

THIS CAUSE came on for consideration as the result of an agreement by and between COMMERCIAL CARRIER CORPORATION (hereinafter referred to as "COMMERCIAL") and the FLORIDA DEPARTMENT OF FINANCIAL SERVICES, DIVISION OF WORKERS' COMPENSATION (hereinafter referred to as the "DEPARTMENT") regarding the issuance of a letter by the DEPARTMENT to COMMERCIAL on October 28, 2002 that ordered COMMERCIAL to submit an actuarial report and increased security deposit to the FLORIDA SELF-INSURERS GUARANTY ASSOCIATION, INC. (hereinafter the "ASSOCIATION"). The DEPARTMENT, having considered said agreement, and being otherwise fully advised in the premises, hereby finds, and COMMERCIAL agrees, as follows:

1. The DEPARTMENT has jurisdiction over COMMERCIAL and the subject matter of this proceeding, pursuant to Sections 440.38 and 440.385, Florida Statutes. COMMERCIAL is a privately owned trucking company headquartered in Auburndale, Florida. COMMERCIAL is one of five operating subsidiaries of Comcar Industries, Inc., all of which operate as self-insured in Florida. COMMERCIAL at all times relevant to the facts and

*[Handwritten initials]*

occurrences set forth herein was and remains a member of the ASSOCIATION.

COMMERCIAL is required to demonstrate to the ASSOCIATION that it has the financial strength necessary to ensure timely payment of all current and future workers' compensation claims, and that it has maintained, at all times, a net worth of at least \$1 million, pursuant to Section 440.38(1)(b), Florida Statutes, and Rule 69L-5.106(1), Florida Administrative Code. COMMERCIAL currently has on deposit with the ASSOCIATION security in the amount of \$2.5 million.

2. On October 28, 2002 the DEPARTMENT by letter ordered COMMERCIAL, as a result of its financial condition, to provide a certified actuarial report and simultaneously post a security deposit equal to no less than 150 percent of the actuarially determined workers' compensation loss reserves established in such report. COMMERCIAL requested formal administrative proceedings pursuant to Section 120.57(1), Florida Statutes, to contest the DEPARTMENT's order.

3. A formal administrative hearing was held before Daniel M. Kilbride, Administrative Law Judge of the Division of Administrative Hearings on March 29 and 30, 2005, in Division of Administrative Hearings Case No. 04-2384. On June 1, 2005 the Administrative Law Judge issued his Recommended Order in Case No. 04-2384. The Administrative Law Judge, based upon his findings of fact and conclusions of law, recommended that the DEPARTMENT issue a final order determining that: 1) COMMERCIAL does not have the financial strength to ensure the timely payment of all current and future workers' compensation claims, 2) COMMERCIAL has failed to maintain a net worth of at least \$1 million. The Administrative Law Judge also recommended that the final order should require COMMERCIAL to post an additional security deposit in the amount of \$7,746,762.50, because

COMMERCIAL has failed to meet the requirements to continue self-insuring. The DEPARTMENT has not yet entered a final order in the matter.

4. The DEPARTMENT accepts and adopts the Administrative Law Judge's findings of fact that COMMERCIAL does not have the financial strength necessary to ensure the timely payment of all current and future workers' compensation claims, and has not at all times maintained a net worth of at least \$1 million.

5. In an effort to resolve this matter without further administrative proceedings:

a. COMMERCIAL shall no later than twenty (20) days from the date of entry of this Consent Order post with the ASSOCIATION a qualifying security deposit in the total amount of \$6,831,175, the amount equal to 100 percent of COMMERCIAL's actuarially determined loss reserves. As COMMERCIAL currently has posted with the ASSOCIATION a security deposit in the amount of \$2.5 million, COMMERCIAL shall within twenty (20) days from the date of entry of this Consent Order post with the ASSOCIATION additional qualifying security in the amount of \$4,331,175. Security must be qualifying under Section 440.38(1)(b)4., Florida Statutes. COMMERCIAL shall maintain said \$6,831,175 security deposit with the ASSOCIATION in accordance with section 440.38(1)(b), Florida Statutes.

b. COMMERCIAL shall no later than twenty (20) days from the date of entry of this Consent Order pay to the DEPARTMENT and to the ASSOCIATION the total amount of \$46,793.18, as partial reimbursement for the DEPARTMENT's and the ASSOCIATION's fees and costs in this matter, by making separate payments in the amount of \$23,396.59 to both the DEPARTMENT and the ASSOCIATION.

6. COMMERCIAL expressly waives in this matter the right to the making of findings of fact and conclusions of law by the DEPARTMENT except as otherwise provided for herein, and all further and other proceedings in this matter to which there may be entitlement by law or rules of the DEPARTMENT, including the issuance of a Final Order by the Chief

Financial Officer, as agency head of the DEPARTMENT. COMMERCIAL agrees not to challenge or contest this Consent Order in any forum now or in the future available to it, including the right to any administrative proceeding, circuit or federal court action or any appeal. COMMERCIAL and the DEPARTMENT further agree that issuance of this Consent Order shall resolve any and all issues that have arisen or may arise as a result of the DEPARTMENT's October 28, 2002 letter to COMMERCIAL as described hereinabove.

7. COMMERCIAL agrees that the failure to adhere to any of the terms and conditions of this Consent Order would pose an immediate threat to the public health safety or welfare and constitute a basis for the entry of an emergency order by the DEPARTMENT in accordance with Sections 120.569(2)(n) and 120.60(6), Florida Statutes.

THEREFORE, the agreement between COMMERCIAL CARRIER CORPORATION and the DEPARTMENT, the terms and conditions of which are set forth above, is APPROVED. FURTHER, all terms and conditions contained herein are hereby ORDERED.

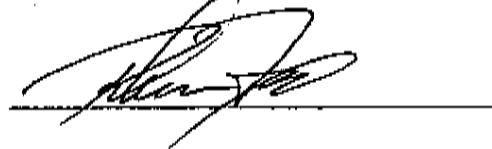
DONE and ORDERED this 10 day of October, 2005.

  
TOM GALLAGHER



By execution hereof, COMMERCIAL CARRIER CORPORATION, consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents that he/she has the authority to bind COMMERCIAL CARRIER CORPORATION to the terms and conditions of this Consent Order.

COMMERCIAL CARRIER CORPORATION



Print Name: ROBERT FOX

Title: SECRETARY/TREASURER

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