

FILED

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DIVISION OF
ADMINISTRATIVE
HEARINGS



REPRESENTING
ALEX SINK
CHIEF FINANCIAL OFFICER
STATE OF FLORIDA

000183

FILED

MAR 29 2010

Chief Financial Officer
Docketed by: YMB

IN THE MATTER OF:

Case Number: 08-117-1A-WC

JOHN BICKNAS LLC/

FINAL ORDER

THIS PROCEEDING came on for final agency action and Alex Sink, Chief Financial Officer of the State of Florida, or her designee, having considered the record in this case, including the Stop-Work Order and Order of Penalty Assessment, the Amended Order of Penalty Assessment, the 2nd Amended Order of Penalty Assessment, the 3rd Amended Order of Penalty Assessment, the 4th Amended Order of Penalty Assessment and the 5th Amended Order of Penalty Assessment served in Division of Workers' Compensation Case No. 08-117-1A, and being otherwise fully advised in the premises, hereby finds that:

1. On March 25, 2008, the Department of Financial Services, Division of Workers' Compensation (hereinafter "Department") issued to JOHN BICKNAS LLC a Stop-Work Order and Order of Penalty Assessment in Division of Workers' Compensation Case No. 08-117-1A. The Stop-Work Order and Order of Penalty Assessment included a Notice of Rights wherein JOHN BICKNAS LLC was advised that any request for an administrative proceeding to challenge or contest the Stop-Work Order and Order of Penalty Assessment must be filed within

twenty-one (21) days of receipt of the Stop-Work Order and Order of Penalty Assessment in accordance with Sections 120.569 and 120.57, Florida Statutes.

2. On March 25, 2008, the Stop-Work Order and Order of Penalty Assessment was served by personal service on JOHN BICKNAS LLC. A copy of the Stop-Work Order and Order of Penalty Assessment is attached hereto as "Exhibit A" and incorporated herein by reference.

3. JOHN BICKNAS LLC failed to answer the Stop-Work Order and Order of Penalty Assessment or request a proceeding in accordance with Sections 120.569 and 120.57, Florida Statutes.

4. On April 3, 2008, the Department issued an Amended Order of Penalty Assessment to JOHN BICKNAS LLC in Case No. 08-117-1A. The Amended Order of Penalty Assessment assessed a total penalty of \$117,098.93 against JOHN BICKNAS LLC. The Amended Order of Penalty Assessment included a Notice of Rights wherein JOHN BICKNAS LLC was advised that any request for an administrative proceeding to challenge or contest the Amended Order of Penalty Assessment must be filed within twenty-one (21) days of receipt of the Amended Order of Penalty Assessment in accordance with Sections 120.569 and 120.57, Florida Statutes.

5. On April 3, 2008, the Amended Order of Penalty Assessment was served on JOHN BICKNAS LLC by personal service. A copy of the Amended Order of Penalty Assessment is attached hereto as "Exhibit B" and incorporated herein by reference.

6. JOHN BICKNAS LLC failed to answer the Amended Order of Penalty Assessment or request a proceeding in accordance with Sections 120.569 and 120.57, Florida Statutes.

7. On April 11, 2008, the Department issued a 2nd Amended Order of Penalty Assessment to JOHN BICKNAS LLC in Case No. 08-117-1A. The 2nd Amended Order of Penalty Assessment assessed a total penalty of \$59,861.05 against JOHN BICKNAS LLC.

8. On April 11, 2008, the 2nd Amended Order of Penalty Assessment was served on JOHN BICKNAS LLC by personal service. A copy of the 2nd Amended Order of Penalty Assessment is attached hereto as "Exhibit C" and incorporated herein by reference.

9. On May 2, 2008, JOHN BICKNAS LLC requested a proceeding based upon the 2nd Amended Order of Penalty Assessment, in accordance with Sections 120.569 and 120.57, Florida Statutes.

10. On May 8, 2008, the Department referred the matter to the Division of Administrative Hearings (hereinafter "DOAH") for appointment of an administrative law judge, who would conduct a formal hearing. The case was assigned DOAH Case No. 08-2236.

11. On July 8, 2008, the Department issued a 3rd Amended Order of Penalty Assessment to JOHN BICKNAS LLC in Case No. 08-117-1A. The 3rd Amended Order of Penalty Assessment assessed a total penalty of \$74,362.20 against JOHN BICKNAS LLC.

12. On August 12, 2008, the Administrative Law Judge permitted the Department to amend the penalty assessment. As a result, the 3rd Amended Order of Penalty Assessment was entered in this matter. A copy of the 3rd Amended Order of Penalty Assessment is attached hereto as "Exhibit D" and incorporated herein by reference.

13. On August 12, 2008, the Department issued a 4th Amended Order of Penalty Assessment to JOHN BICKNAS LLC in Case No. 08-117-1A. The 4th Amended Order of Penalty Assessment assessed a total penalty of \$169,896.64 against JOHN BICKNAS LLC.

14. On August 21, 2008, the Administrative Law Judge permitted the Department to amend the penalty assessment. As a result, the 4th Amended Order of Penalty Assessment was entered in this action. A copy of the 4th Amended Order of Penalty Assessment is attached hereto as "Exhibit E" and incorporated herein by reference.

15. On September 24, 2008, the Department issued a 5th Amended Order of Penalty Assessment to JOHN BICKNAS LLC in Case No. 08-117-1A. The 5th Amended Order of Penalty Assessment assessed a total penalty of \$20,054.97 against JOHN BICKNAS LLC.

16. On September 25, 2008, this 5th Amended Order of Penalty Assessment was filed in DOAH Case No. 08-2236. A copy of the 5th Amended Order of Penalty Assessment is attached hereto as "Exhibit F" and incorporated herein by reference.

17. On September 25, 2008, based upon the 5th Amended Order of Penalty Assessment, JOHN BICKNAS LLC filed a Notice of Withdrawal of Claim in Division of Administrative Hearings case number 08-2236, attached hereto as "Exhibit G" and incorporated herein by reference.

18. On September 29, 2008, the Administrative Law Judge issued an Order Closing File in Division of Administrative Hearings case number 08-2236, attached hereto as "Exhibit H" and incorporated herein by reference.

FINDINGS OF FACT

19. The factual allegations contained in the Stop-Work Order and Order of Penalty Assessment issued on March 25, 2008, the Amended Order of Penalty Assessment issued on April 3, 2008, the 2nd Amended Order of Penalty Assessment issued on April 11, 2008, the 3rd Amended Order of Penalty Assessment issued on July 8, 2008, the 4th Amended Order of Penalty Assessment issued on August 12, 2008, and the 5th Amended Order of Penalty Assessment

issued on September 24, 2008, which are attached hereto as Exhibit A, Exhibit B, Exhibit C, Exhibit D, Exhibit E and Exhibit F, respectively, and fully incorporated herein by reference, are hereby adopted as the Department's Findings of Fact in this case.

CONCLUSIONS OF LAW

20. Based upon the Findings of Fact adopted herein, the Department concludes that JOHN BICKNAS LLC violated the specific statutes and rules alleged in the Stop-Work Order and Order of Penalty Assessment, the Amended Order of Penalty Assessment, the 2nd Amended Order of Penalty Assessment, the 3rd Amended Order of Penalty Assessment, the 4th Amended Order of Penalty Assessment, and the 5th Amended Order of Penalty Assessment, and hereby adopts the violation(s) charged in the Stop-Work Order and Order of Penalty Assessment and the Amended Orders of Penalty Assessment as the Conclusions of Law in this case.

PENALTY IMPOSED

21. The failure of JOHN BICKNAS LLC to pay the assessed penalty or enter into a Payment Agreement Schedule for Periodic Payment of Penalty with the Division, taken together with the Findings of Fact and Conclusions of Law adopted herein, constitute grounds for the Chief Financial Officer to impose the penalty and order the cessation of business operations as set forth herein.

IT IS THEREFORE ORDERED that:

a. JOHN BICKNAS LLC shall immediately pay the total penalty of \$20,054.97 in full to the Department of Financial Services for deposit into the Workers' Compensation Administration Trust Fund; and

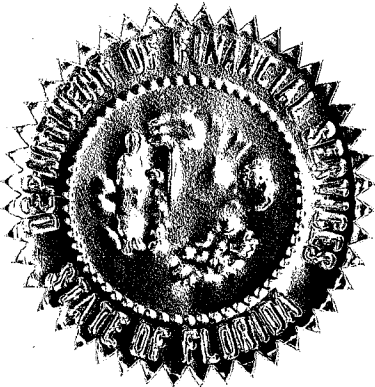
b. JOHN BICKNAS LLC shall immediately cease all business operations in the State of Florida until such time as the Department issues an order releasing the Stop-Work Order

and Order of Penalty Assessment. The Department shall not issue an Order releasing the Stop-Work Order and Order of Penalty Assessment until JOHN BICKNAS LLC has come into compliance with the coverage requirements of Chapter 440, Florida Statutes, and has paid the total penalty of \$20,054.97 to the Department.

DONE and ORDERED this 29th day of March, 2010.



BRIAN LONDON
DEPUTY CHIEF FINANCIAL OFFICER



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, Florida Rules of Appellate Procedure. Review proceedings must be instituted by filing a Notice of Appeal with Julie Jones, DFS Agency Clerk, at 612 Larson Building, 200 E. Gaines Street, Tallahassee, Florida 32399-0390, and a copy of the same with the appropriate District Court of Appeal within thirty (30) days of rendition of this Order.

COPIES FURNISHED TO:

JOHN BICKNAS LLC
7205 COMMUNITY DR.
PENSACOLA, FL 325268983

MICHELLE NEWCOMER
610 E. BURGESS ROAD
PENSACOLA, FL 32504

**STATE OF FLORIDA, DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF WORKERS' COMPENSATION**

EMPLOYER NAME: John Bicknas LLC		STOP-WORK ORDER No.: 08-117-1A
FEIN: 14-1907153		ISSUANCE DATE: 3/25/2008
EMPLOYER ADDRESS: 7205 Community Dr.		
CITY: Pensacola	STATE: FL	ZIP: 32526
WORKSITE POSTING ADDRESS: 5540 Grande Lagoon Blvd.		
CITY: Pensacola	STATE: FL	ZIP: 32507
INDUSTRY OF EMPLOYER: <input checked="" type="checkbox"/> Construction <input type="checkbox"/> Non-construction <input type="checkbox"/> Agriculture		

STOP-WORK ORDER

Pursuant to section 440.107, F.S., the above-referenced Employer is hereby **ORDERED TO CEASE ALL BUSINESS OPERATIONS FOR ALL WORKSITES IN THE STATE** based on the following violation(s):

- Failure to secure the payment of workers' compensation in violation of sections 440.10(1), 440.38(1), and 440.107(2) F. S., by:
 - failing to obtain coverage that meets the requirements of chapter 440, F. S., and the Insurance Code;
 - materially understating or concealing payroll;
 - materially misrepresenting or concealing employee duties so as to avoid proper classification for premium calculations;
 - materially misrepresenting or concealing information pertinent to the computation and application of an experience rating modification factor.
- Failure to produce required business records within 5 business days in violation of section 440.107(7)(a), F.S.
- Failure to produce required documents within 3 business days in violation of section 440.05(11), F.S.

THIS STOP-WORK ORDER MAY BE AMENDED TO INCLUDE ADDITIONAL VIOLATIONS AND SHALL REMAIN IN EFFECT UNTIL THE DIVISION ISSUES AN ORDER RELEASING THE STOP-WORK ORDER FOR ALL WORKSITES.

IF THE EMPLOYER CONDUCTS ANY BUSINESS OPERATIONS IN VIOLATION OF THIS STOP-WORK ORDER, A PENALTY OF \$1,000.00 PER DAY FOR EACH DAY OF VIOLATION SHALL BE ASSESSED.

RECEIVED

NOV 17 2008

ORDER OF PENALTY ASSESSMENT:

A penalty against the Employer is hereby **ORDERED** in an amount:

- Equal to 1.5 times the amount the employer would have paid in premium when applying approved manual rates to the employer's payroll during periods for which it failed to secure the payment of workers' compensation required by the chapter within the preceding 3-year period, or \$1,000, whichever is greater. Section 440.107(7)(d), F.S.
- Up to \$5,000 for each employee who the Employer misclassified as an independent contractor. Sections 440.10(1)(f) and 440.107(7)(f), F. S.

BUREAU OF COMPLIANCE
TALLAHASSEE

The penalty may be amended until a Final Order or an Order of Conditional Release from Stop-Work Order is issued. Pursuant to section 440.107(11), F.S., the Department may initiate lien proceedings to collect any penalty due that has not been paid. In addition, the Department may refer any unpaid penalty that is due to a collection agency for the initiation of proceedings to collect the unpaid penalty.

CERTIFICATE OF SERVICE

Pursuant to section 440.107(4), F.S., Michelle Newcomer, Compliance Investigator
(print name and title of server)

served a true copy of this Stop-Work Order:

- By posting at the Worksite: Date: 3/25/2008 Time: 10:03:00 AM Server: M. L. Newcomer
- By hand delivery: Date: 3/25/08 Time: 11:22a Server: mnewcomer
- By certified mail: Date: _____ Time: _____ Article: _____

EXHIBIT

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 A

NOTICE OF RIGHTS

You have a right to administrative review of this action by the Department under sections 120.569 and 120.57, Florida Statutes.

To obtain review, you must file a written petition requesting review. If you dispute a material fact contained in this action, you are entitled to a hearing under Sections 120.569 and 120.57(1), Florida Statutes, at which you may be represented by counsel, present evidence and argument on the issue(s), examine witnesses, submit a proposed recommended order, and file exceptions to the recommended order of the Administrative Law Judge. If you do not dispute a material fact contained in this action, you are entitled to a hearing under section 120.57(2), Florida Statutes, at which you may be represented by counsel, present documentary evidence, and present a written statement in opposition to this action.

A petition for a hearing under sections 120.569 and 120.57, Florida Statutes, must conform to Rule 28-106.2015, Florida Administrative Code. The petition shall contain a) the name, address, and telephone number, and facsimile number (if any) of the petitioner; b) the name, address, and telephone number, and facsimile number of the attorney or qualified representative of the petitioner (if any) upon whom service of pleadings and other papers shall be made; c) a statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the petition must so indicate; d) a statement of when the petitioner received notice of the agency action; and e) a statement including the file number to the agency action.

You must file the petition for hearing so that it is received by the Department within twenty-one (21) days of your receipt of this agency action. The petition must be filed with the General Counsel acting as the Agency Clerk, Department of Financial Services, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0333. **FAILURE TO FILE A PETITION WITHIN THE TWENTY-ONE (21) DAYS CONSTITUTES A WAIVER OF YOUR RIGHT TO ADMINISTRATIVE REVIEW OF THE AGENCY ACTION.**

Mediation under section 120.573, Florida Statutes, is not available.

ISSUING AGENCY AND ADDRESS

Division of Workers' Compensation, Bureau of Compliance

610 E. Burgess Rd., Pensacola, FL 32504

Attn: _____, Telephone: _____
Michelle Newcomer (850) 453-7853

STATE OF FLORIDA, DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF WORKERS' COMPENSATION

EMPLOYER NAME: John Bicknas LLC FEIN: 14-1907153	STOP-WORK ORDER No.: 08-117-1A ISSUANCE DATE: 4/3/2008
EMPLOYER ADDRESS: 7205 Community Dr. CITY: Pensacola	
STATE: FL	ZIP: 32526

AMENDED ORDER OF PENALTY ASSESSMENT

The Division of Workers' Compensation issued a Stop-Work Order in this case on 3/25/2008. The Stop-Work Order included an Order of Penalty Assessment that identified the penalties assessable under sections 440.10 and 440.107, F.S. The Division hereby amends the Order of Penalty Assessment based on the following penalties:

- Failure to secure the payment of workers' compensation within the meaning of section 440.107(2), F.S., by:
- failing to obtain coverage that meets the requirements of Chapter 440, F.S., and the Insurance Code;
 - materially understating or concealing payroll;
 - materially misrepresenting or concealing employee duties so as to avoid proper classification for premium calculations;
 - materially misrepresenting or concealing information pertinent to the computation and application of an experience rating modification factor.

For such violation(s) the Employer is assessed a penalty of \$ 117,098.93 (section 440.107(7)(d), F.S.) as detailed in the attached PENALTY WORKSHEET, which is incorporated herein by reference;

Conducting business operations in violation of the Stop-Work Order as detailed in the attached PENALTY WORKSHEET, which is incorporated herein by reference, for which the Employer is assessed a penalty of \$ _____ (section 440.107(7)(c), F.S.);

Misrepresenting the status of the employee(s) as an independent contractor(s), as detailed on the attached PENALTY WORKSHEET, which is incorporated herein by reference, for which the Employer is assessed a penalty of \$ _____ (section 440.10(1)(f), F.S.).

It is hereby **ORDERED** that the Employer is assessed a TOTAL PENALTY of \$ 117,098.93

The penalties assessed herein supersede any penalties previously assessed in this case. The Employer shall pay the TOTAL PENALTY by money order or cashier's check, made payable to the **DFS-Workers' Compensation Administration Trust Fund**.

The Stop-Work Order issued in this case shall remain in effect until either (a) The Division issues an order releasing the Stop-Work Order upon finding that the employer has come into compliance with the coverage requirements of the workers' compensation law and pays the total penalty in full, or (b) The Division issues an Order of Conditional Release From Stop-Work Order pursuant to the employer coming into compliance with the coverage requirements of the workers' compensation law and entering into a Payment Agreement Schedule For Periodic Payment of Penalty.

Pursuant to section 440.107(11), F.S., the Department may initiate lien proceedings to collect any penalty due that has not been paid. In addition, the Department may refer any unpaid penalty that is due to a collection agency for the initiation of proceedings to collect the unpaid penalty.

CERTIFICATE OF SERVICE

Pursuant to section 440.107(4), F.S., Michelle Newcomer, Compliance Investigator
(print name and title of server)

served a true copy of this Amended Order of Penalty Assessment:

By hand delivery: Date: 4/3/08; Time: 9a; Server: mnewcomer

By certified mail: Date: _____; Time: _____; Article: _____

January 3, 2006

EXHIBIT

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B

RECEIVED

FEB 17 2009

BUREAU OF COMPLIANCE

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NOTICE OF RIGHTS

You have a right to administrative review of this action by the Department under sections 120.569 and 120.57, Florida Statutes.

To obtain review, you must file a written petition requesting review. If you dispute a material fact contained in this action, you are entitled to a hearing under Sections 120.569 and 120.57(1), Florida Statutes, at which you may be represented by counsel, present evidence and argument on the issue(s), examine witnesses, submit a proposed recommended order, and file exceptions to the recommended order of the Administrative Law Judge. If you do not dispute a material fact contained in this action, you are entitled to a hearing under section 120.57(2), Florida Statutes, at which you may be represented by counsel, present documentary evidence, and present a written statement in opposition to this action.

A petition for a hearing under sections 120.569 and 120.57, Florida Statutes, must conform to Rule 28-106.2015, Florida Administrative Code. The petition shall contain a) the name, address, and telephone number, and facsimile number (if any) of the petitioner; b) the name, address, and telephone number, and facsimile number of the attorney or qualified representative of the petitioner (if any) upon whom service of pleadings and other papers shall be made; c) a statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the petition must so indicate; d) a statement of when the petitioner received notice of the agency action; and e) a statement including the file number to the agency action.

You must file the petition for hearing so that it is received by the Department within twenty-one (21) days of your receipt of this agency action. The petition must be filed with the General Counsel acting as the Agency Clerk, Department of Financial Services, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0333. **FAILURE TO FILE A PETITION WITHIN THE TWENTY-ONE (21) DAYS CONSTITUTES A WAIVER OF YOUR RIGHT TO ADMINISTRATIVE REVIEW OF THE AGENCY ACTION.**

Mediation under section 120.573, Florida Statutes, is not available.

ISSUING AGENCY AND ADDRESS

Division of Workers' Compensation, Bureau of Compliance

610 E. Burgess Rd., Pensacola, FL 32504

Attn: Michelle Newcomer, Telephone: (850) 453-7853

**State of Florida, Department of Financial Services
Division of Workers' Compensation, Bureau of Compliance
Penalty Worksheet**

BUSINESS NAME: JOHN BICKNAS LLC

DWC Case No. 08-117-1A

Part 1. Penalty for failure to obtain coverage that meets the requirements of Chapter 440, F.S. and the Insurance Code.								
Employee Name	(a) Class Code	(b) Period of Non-Compliance	(c) Gross Payroll *	(d) Column (c) /100	(e) Approved Manual Rate	(f) Premium (d) x (e)	(g) Penalty** (f) x 1.5	
2005 WAGES	5645	04/01/2005	56,913.75	569.14	38.40	21,854.86	32,782.32	
2006 WAGES	5645	01/01/2006	91,777.00	917.77	35.12	32,232.08	48,348.12	
2007 WAGES	5645	01/01/2007	73,821.50	738.22	27.71	20,455.94	30,683.91	
JOHN BICKNAS	5645	01/01/2008	9,058.45	90.58	20.04	1,815.31	2,722.97	
CHASE ALDERMAN	5474	01/01/2008	9,058.45	90.58	9.73	881.39	1,322.09	
JOHN BICKNAS	5606	01/01/2006	10,546.00	105.46	3.84	404.97	607.46	
JOHN BICKNAS	5606	01/01/2007	12,357.00	123.57	3.41	421.37	632.06	
Part 1 Penalty Sub-Totals: ***			263,532.15			76,065.94	117,098.93	

* If the employer has failed to provide business records sufficient to enable the Department to determine the employer's payroll, payroll shall be imputed to be the statewide average weekly wage as defined in s.440.12(2) F.S. multiplied by 1.5, (440.107(7)(e)).

** Premium multiplied by statutory factor of 1.5

*** Greater of penalty under column (g) or \$1000. s440.107(d)(1)

TOTAL PENALTY for Parts 1, 2, 3, 4, 5, 6: \$117,098.93

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STATE OF FLORIDA, DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF WORKERS' COMPENSATION

EMPLOYER NAME: John Bicknas LLC	STOP-WORK ORDER No.: 08-117-1A
FEIN: 14-1907153	ISSUANCE DATE: 4/11/2008
EMPLOYER ADDRESS: 7205 Community Dr. CITY: Pensacola	
STATE: FL	ZIP: 32526

2nd **AMENDED ORDER OF PENALTY ASSESSMENT**

The Division of Workers' Compensation issued a Stop-Work Order against the above-referenced Employer on 3/25/2008. The Stop-Work Order included an Order of Penalty Assessment that identified the penalties assessable under sections 440.10 and 440.107, F.S.

Based upon additional record received
the Division hereby amends the Amended Order of Penalty Assessment issued on 4/3/2008
and assesses the penalty(s) as specified in the Penalty Worksheet, which is attached hereto and made a part hereof.

It is **ORDERED** that the Employer is hereby assessed a TOTAL PENALTY of \$ 59,861.05.

The penalty(s) assessed herein supersedes any penalty(s) previously assessed in this case. The Employer shall pay the TOTAL PENALTY by money order or cashier's check, made payable to the **DFS-Workers' Compensation Administration Trust Fund**, or enter into a Payment Agreement Schedule for Periodic Payment of Penalty with the Division of Workers' Compensation.

If the total penalty assessed in this Amended Order of Penalty Assessment is less than the total penalty assessed in the Amended Order of Penalty Assessment issued on 4/3/2008, the Division will mail a refund in the amount of the difference to the Employer.

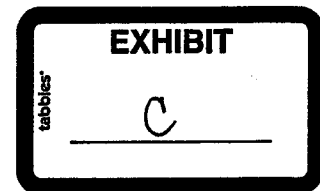
Pursuant to section 440.107(11), F.S., the Department may initiate lien proceedings to collect any penalty due that has not been paid. In addition, the Department may refer any unpaid penalty that is due to a collection agency for the initiation of proceedings to collect the unpaid penalty.

CERTIFICATE OF SERVICE

Pursuant to section 440.107(4), F.S., Michelle Newcomer, Compliance Investigator
(print name and title of server)

served a true copy of this 2nd Amended Order of Penalty Assessment:

By personal service: Date: 4/11/08; Time: 12:43p; Server: MNEWCOMER
 By certified mail: Date: _____; Time: _____; Article: _____



NOTICE OF RIGHTS

You have a right to administrative review of this action by the Department under sections 120.569 and 120.57, Florida Statutes.

To obtain review, you must file a written petition requesting review. If you dispute a material fact contained in this action, you are entitled to a hearing under Sections 120.569 and 120.57(1), Florida Statutes, at which you may be represented by counsel, present evidence and argument on the issue(s), examine witnesses, submit a proposed recommended order, and file exceptions to the recommended order of the Administrative Law Judge. If you do not dispute a material fact contained in this action, you are entitled to a hearing under section 120.57(2), Florida Statutes, at which you may be represented by counsel, present documentary evidence, and present a written statement in opposition to this action.

A petition for a hearing under sections 120.569 and 120.57, Florida Statutes, must conform to Rule 28-106.2015, Florida Administrative Code. The petition shall contain a) the name, address, and telephone number, and facsimile number (if any) of the petitioner; b) the name, address, and telephone number, and facsimile number of the attorney or qualified representative of the petitioner (if any) upon whom service of pleadings and other papers shall be made; c) a statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the petition must so indicate; d) a statement of when the petitioner received notice of the agency action; and e) a statement including the file number to the agency action.

You must file the petition for hearing so that it is received by the Department within twenty-one (21) days of your receipt of this agency action. The petition must be filed with the General Counsel acting as the Agency Clerk, Department of Financial Services, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0333. **FAILURE TO FILE A PETITION WITHIN THE TWENTY-ONE (21) DAYS CONSTITUTES A WAIVER OF YOUR RIGHT TO ADMINISTRATIVE REVIEW OF THE AGENCY ACTION.**

Mediation under section 120.573, Florida Statutes, is not available.

ISSUING AGENCY AND ADDRESS

Division of Workers' Compensation, Bureau of Compliance

610 E. Burgess Rd., Pensacola, FL 32504

Michelle Newcomer

(850) 453-7853

Attn: _____, Telephone: _____

**State of Florida, Department of Financial Services
Division of Workers' Compensation, Bureau of Compliance
Penalty Worksheet**

BUSINESS NAME: JOHN BICKNAS LLC

DWC Case No. 08-117-1A

Part 1. Penalty for failure to obtain coverage that meets the requirements of Chapter 440, F.S. and the Insurance Code.								
Employee Name	(a) Class Code	(b) Period of Non-Compliance	(c) Gross Payroll *	(d) Column (c) /100	(e) Approved Manual Rate	(f) Premium (d) x (e)	(g) Penalty** (f) x 1.5	
2005 WAGES	5645	04/01/2005	6,888.75	68.89	38.40	2,645.28	3,967.92	
2006 WAGES	5645	01/01/2006	37,822.00	378.22	35.12	13,283.09	19,924.64	
2007 WAGES	5645	01/01/2007	73,821.50	738.22	27.71	20,455.94	30,683.91	
JOHN BICKNAS	5645	01/01/2008	9,058.45	90.58	20.04	1,815.31	2,722.97	
CHASE ALDERMAN	5474	01/01/2008	9,058.45	90.58	9.73	881.39	1,322.09	
JOHN BICKNAS	5606	01/01/2006	10,546.00	105.46	3.84	404.97	607.46	
JOHN BICKNAS	5606	01/01/2007	12,357.00	123.57	3.41	421.37	632.06	
Part 1 Penalty Sub-Totals: ***			159,552.15			39,907.35	59,861.05	

* If the employer has failed to provide business records sufficient to enable the Department to determine the employer's payroll, payroll shall be imputed to be the statewide average weekly wage as defined in s.440.12(2) F.S. multiplied by 1.5, (440.107(7)(e)).

** Premium multiplied by statutory factor of 1.5

*** Greater of penalty under column (g) or \$1000. s440.107(d)(1)

TOTAL PENALTY for Parts 1, 2, 3, 4, 5, 6: \$59,861.05

22

STATE OF FLORIDA, DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF WORKERS' COMPENSATION

EMPLOYER NAME: John Bicknas LLC	STOP-WORK ORDER No.: 08-117-1A
FEIN: 14-1907153	ISSUANCE DATE: 7/8/2008
EMPLOYER ADDRESS: 7205 Community Dr.	
CITY: Pensacola	STATE: FL ZIP: 32526

3rd **AMENDED ORDER OF PENALTY ASSESSMENT**

The Division of Workers' Compensation issued a Stop-Work Order against the above-referenced Employer on 3/25/2008. The Stop-Work Order included an Order of Penalty Assessment that identified the penalties assessable under sections 440.10 and 440.107, F.S.

Based upon changes in class code and changes to payments made to Michael Brouwer, the Division hereby amends the Amended Order of Penalty Assessment issued on 4/11/2008 and assesses the penalty(s) as specified in the Penalty Worksheet, which is attached hereto and made a part hereof.

It is **ORDERED** that the Employer is hereby assessed a **TOTAL PENALTY** of \$ 74,362.20.

The penalty(s) assessed herein supersedes any penalty(s) previously assessed in this case. The Employer shall pay the **TOTAL PENALTY** by money order or cashier's check, made payable to the **DFS-Workers' Compensation Administration Trust Fund**, or enter into a Payment Agreement Schedule for Periodic Payment of Penalty with the Division of Workers' Compensation.

If the total penalty assessed in this Amended Order of Penalty Assessment is less than the total penalty assessed in the Amended Order of Penalty Assessment issued on 4/11/2008, the Division will mail a refund in the amount of the difference to the Employer.

Pursuant to section 440.107(11), F.S., the Department may initiate lien proceedings to collect any penalty due that has not been paid. In addition, the Department may refer any unpaid penalty that is due to a collection agency for the initiation of proceedings to collect the unpaid penalty.

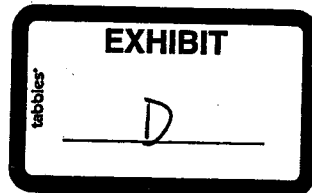
CERTIFICATE OF SERVICE

Pursuant to section 440.107(4), F.S., Michelle Newcomer, Compliance Investigator
(print name and title of server)

served a true copy of this 3rd Amended Order of Penalty Assessment:

By personal service: Date: _____; Time: _____; Server: _____

By certified mail: Date: _____; Time: _____; Article: _____



NOTICE OF RIGHTS

You, the Employer, have a right under sections 120.569 and 120.57, F.S., to initiate proceedings by filing a written petition for hearing.

If you dispute a material fact contained in this Amended Order of Penalty Assessment, you are entitled to a hearing under section 120.57(1), F.S., at which you may be represented by counsel, present evidence and argument on the issue(s), examine witnesses, submit a proposed recommended order, and file exceptions to the recommended order of the administrative law judge. If you do not dispute a material fact contained in this Amended Order of Penalty Assessment, you are entitled to a hearing under section 120.57(2), F.S., at which you may be represented by counsel, present documentary evidence, and present a written statement in opposition to this Amended Order of Penalty Assessment.

A petition for a hearing under section 120.57, F.S., must conform to rules 28-106.201(2) and 28-106.301(2), Florida Administrative Code. The petition shall contain a) the name and address of each agency affected and each agency's file or identification number, if known; b) the name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, and an explanation of how the petitioner's substantial interests will be affected by the agency determination; c) a statement of when and how the petitioner received notice of the agency decision; d) if you dispute a material fact, a statement of all disputed issues of material fact (if there are none, then the petition must so indicate), and if you do not dispute a material fact, a concise statement of ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action; e) a concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action; f) a statement of the specific rules or statutes the petitioner contends require a reversal or modification of the agency's proposed action; and g) a statement of the relief sought by the petition with respect to the agency's proposed action.

You must file a petition for hearing so that it is received by the Division at the address identified below, within twenty-one (21) days of receipt of this Amended Order of Penalty Assessment. **FAILURE TO FILE A PETITION FOR HEARING WITHIN THE TWENTY-ONE (21) DAYS OF RECEIPT OF THIS AMENDED ORDER OF PENALTY ASSESSMENT CONSTITUTES A WAIVER OF YOUR RIGHT TO REQUEST A HEARING.**

Mediation under section 120.573, F.S., is not available.

ISSUING AGENCY NAME AND ADDRESS

Division of Workers' Compensation, Bureau of Compliance: _____
610 E. Burgess Road, Pensacola, FL 32504-6320

Attn: Michelle Newcomer, Compliance Investigator _____, Telephone: (850) 453-7853

State of Florida, Department of Financial Services
 Division of Workers' Compensation, Bureau of Compliance
 Penalty Worksheet

BUSINESS NAME: JOHN BICKNAS LLC

DWC Case No. 08-117-1A

Part 1. Penalty for failure to obtain coverage that meets the requirements of Chapter 440, F.S. and the Insurance Code.								
Employee Name	Imputed	(a) Class Code	(b) Period of Non-Compliance	(c) Gross Payroll *	(d) Column (c) /100	(e) Approved Mar.ual Rate	(f) Premium (d) x (e)	(g) Penalty** (f) x 1.5
2005 WAGES	<input type="checkbox"/>	5645	04/01/2005 12/31/2005	6,888.75	68.89	38.40	2,645.28	3,967.92
2006 WAGES	<input type="checkbox"/>	5645	01/01/2006 12/31/2006	89,977.00	899.77	35.12	31,599.92	47,399.88
2007 WAGES	<input type="checkbox"/>	5645	01/01/2007 12/31/2007	19,866.50	198.67	27.71	5,505.01	8,257.52
JOHN BICKNAS	<input type="checkbox"/>	5645	01/01/2008 03/25/2008	9,058.45	90.58	20.04	1,815.31	2,722.97
CHASE ALDERMAN	<input type="checkbox"/>	5474	01/01/2008 03/25/2008	9,058.45	90.58	9.73	881.39	1,322.09
JOHN BICKNAS	<input type="checkbox"/>	5645	01/01/2006 12/31/2006	10,546.00	105.46	35.12	3,703.76	5,555.64
JOHN BICKNAS	<input type="checkbox"/>	5645	01/01/2007 12/31/2007	12,357.00	123.57	27.71	3,424.12	5,136.18
Part 1 Penalty Sub-Totals: ***				157,752.15			49,574.79	74,362.20

* If the employer has failed to provide business records sufficient to enable the Department to determine the employer's payroll, payroll shall be imputed to be the statewide average weekly wage as defined in s.440.12(2) F.S. multiplied by 1.5, (440.107(7)(e)).

** Premium multiplied by statutory factor of 1.5

*** Greater of penalty under column (g) or \$1000. s440.107(d)(1)

TOTAL PENALTY for Parts 1, 2, 3, 4, 5: \$74,362.20

STATE OF FLORIDA, DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF WORKERS' COMPENSATION

EMPLOYER NAME: John Bicknas LLC	STOP-WORK ORDER No.: 08-117-1A
FEIN: 14-1907153	ISSUANCE DATE: 8/12/2008
EMPLOYER ADDRESS: 7205 Community Dr.	
CITY: Pensacola	STATE: FL ZIP: 32526

4th **AMENDED ORDER OF PENALTY ASSESSMENT**

The Division of Workers' Compensation issued a Stop-Work Order against the above-referenced Employer on 3/25/2008. The Stop-Work Order included an Order of Penalty Assessment that identified the penalties assessable under sections 440.10 and 440.107, F.S.

Based upon insufficient records provided by the employer, the Division hereby amends the Amended Order of Penalty Assessment issued on 7/8/2008 and assesses the penalty(s) as specified in the Penalty Worksheet, which is attached hereto and made a part hereof.

It is **ORDERED** that the Employer is hereby assessed a **TOTAL PENALTY** of \$ 169,896.64.

The penalty(s) assessed herein supersedes any penalty(s) previously assessed in this case. The Employer shall pay the **TOTAL PENALTY** by money order or cashier's check, made payable to the **DFS-Workers' Compensation Administration Trust Fund**, or enter into a Payment Agreement Schedule for Periodic Payment of Penalty with the Division of Workers' Compensation.

If the total penalty assessed in this Amended Order of Penalty Assessment is less than the total penalty assessed in the Amended Order of Penalty Assessment issued on 7/8/2008 the Division will mail a refund in the amount of the difference to the Employer.

Pursuant to section 440.107(11), F.S, the Department may initiate lien proceedings to collect any penalty due that has not been paid. In addition, the Department may refer any unpaid penalty that is due to a collection agency for the initiation of proceedings to collect the unpaid penalty.

Please see the Notice of Rights on the reverse side that pertains to your rights regarding this action.

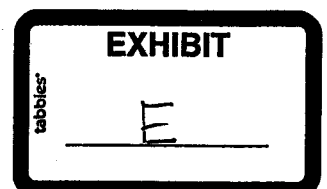
CERTIFICATE OF SERVICE

Pursuant to section 440.107(4), F.S., Michelle Newcomer, Compliance Investigator
(print name and title of server)

served a true copy of this 4th Amended Order of Penalty Assessment:

By personal service: Date: _____; Time: _____; Server: _____

By certified mail: Date: _____; Time: _____; Article: _____



NOTICE OF RIGHTS

You have a right to administrative review of this action by the Department under Sections 120.569 and 120.57, Florida Statutes.

To obtain review, you must file a written petition requesting review. If you dispute a material fact contained in this action, you are entitled to a hearing under Section 120.569 and 120.57(1), Florida Statutes, at which you may be represented by counsel, present evidence and argument on the issue(s), examine witnesses, submit a proposed recommended order, and file exceptions to the recommended order of the Administrative Law Judge. If you do not dispute a material fact contained in this action, you are entitled to a hearing under section 120.57(2), Florida Statutes, at which you may be represented by counsel, present documentary evidence, and present a written statement in opposition to this action.

A petition for a hearing under Section 120.569 and 120.57, Florida Statutes, must conform to rules 28-106.2015, Florida Administrative Code. The petition shall contain a) the name, address, and telephone number, and facsimile number (if any) of the petitioner; b) the name, address, and telephone number, and facsimile number of the attorney or qualified representative of the petitioner (if any) upon whom service of pleadings and other papers shall be made; c) a statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the petition must so indicate; d) a statement of when the petitioner received notice of the agency action; and e) a statement including the file number to the agency action;

You must file the petition for hearing so that it is **received** by the Department within twenty-one (21) days of your receipt of this agency action. The petition must be filed with the General Counsel acting as the Agency Clerk, Department of Financial Service, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0333. **FAILURE TO FILE A PETITION FOR HEARING WITHIN THE TWENTY-ONE (21) DAYS CONSTITUTES A WAIVER OF YOUR RIGHT TO ADMINISTRATIVE REVIEW OF THE AGENCY ACTION.**

Mediation under section 120.573, Florida Statutes, is not available.

ISSUING AGENCY NAME AND ADDRESS

Division of Workers' Compensation, Bureau of Compliance: _____

610 E. Burgess Road, Pensacola, FL 32504-6320

Attn: Michelle Newcomer, Compliance Investigator, Telephone: (850) 453-7853

State of Florida, Department of Financial Services
 Division of Workers' Compensation, Bureau of Compliance
 Penalty Worksheet

BUSINESS NAME: JOHN BICKNAS LLC

DWC Case No. 08-117-1A

Part 1. Penalty for failure to obtain coverage that meets the requirements of Chapter 440, F.S. and the Insurance Code.									
Employee Name	Imputed	(a) Class Code	(b) Period of Non-Compliance	(c) Gross Payroll *	(d) Column (c) /100	(e) Approved Manual Rate	(f) Premium (d) x (e)	(g) Penalty** (f) x 1.5	
JOHN BICKNAS	<input checked="" type="checkbox"/>	5645	03/26/2005 12/31/2005	44,919.86	449.20	38.40	17,249.23	25,873.85	
CHASE ALDERMAN	<input checked="" type="checkbox"/>	5645	03/26/2005 12/31/2005	44,919.86	449.20	38.40	17,249.23	25,873.85	
JOHN BICKNAS	<input checked="" type="checkbox"/>	5645	01/01/2006 12/31/2006	58,347.86	583.48	35.12	20,491.77	30,737.66	
CHASE ALDERMAN	<input checked="" type="checkbox"/>	5645	01/01/2006 12/31/2006	58,347.86	583.48	35.12	20,491.77	30,737.66	
JOHN BICKNAS	<input checked="" type="checkbox"/>	5645	01/01/2007 12/31/2007	58,347.86	583.48	27.71	16,168.19	24,252.29	
CHASE ALDERMAN	<input checked="" type="checkbox"/>	5645	01/01/2007 12/31/2007	58,347.86	583.48	27.71	16,168.19	24,252.29	
JOHN BICKNAS	<input checked="" type="checkbox"/>	5645	01/01/2008 03/25/2008	13,587.86	135.88	20.04	2,723.01	4,084.52	
CHASE ALDERMAN	<input checked="" type="checkbox"/>	5645	01/01/2008 03/25/2008	13,587.86	135.88	20.04	2,723.01	4,084.52	
Part 1 Penalty Sub-Totals: ***				350,406.88			113,264.40	169,896.64	

* If the employer has failed to provide business records sufficient to enable the Department to determine the employer's payroll, payroll shall be imputed to be the statewide average weekly wage as defined in s.440.12(2) F.S. multiplied by 1.5. (440.107(7)(e)).

** Premium multiplied by statutory factor of 1.5

*** Greater of penalty under column (g) or \$1000. s440.107(d)(1)

TOTAL PENALTY for Parts 1, 2, 3, 4, 5: \$169,896.64

STATE OF FLORIDA, DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF WORKERS' COMPENSATION

EMPLOYER NAME: John Bicknas LLC		STOP-WORK ORDER No.: 08-117-1A	
FEIN: 14-1907153		ISSUANCE DATE: 9/24/2008	
EMPLOYER ADDRESS: 7205 Community Dr.			
CITY: Pensacola	STATE: FL	ZIP:	32526

5th **AMENDED ORDER OF PENALTY ASSESSMENT**

The Division of Workers' Compensation issued a Stop-Work Order against the above-referenced Employer on 3/25/2008. The Stop-Work Order included an Order of Penalty Assessment that identified the penalties assessable under sections 440.10 and 440.107, F.S.

Based upon Explanation of Records, the Division hereby amends the Amended Order of Penalty Assessment issued on 8/12/2008 and assesses the penalty(s) as specified in the Penalty Worksheet, which is attached hereto and made a part hereof.

It is **ORDERED** that the Employer is hereby assessed a **TOTAL PENALTY** of \$ 20,054.97.

The penalty(s) assessed herein supersedes any penalty(s) previously assessed in this case. The Employer shall pay the **TOTAL PENALTY** by money order or cashier's check, made payable to the **DFS-Workers' Compensation Administration Trust Fund**, or enter into a Payment Agreement Schedule for Periodic Payment of Penalty with the Division of Workers' Compensation.

If the total penalty assessed in this Amended Order of Penalty Assessment is less than the total penalty assessed in the Amended Order of Penalty Assessment issued on 8/12/2008 the Division will mail a refund in the amount of the difference to the Employer.

Pursuant to section 440.107(11), F.S, the Department may initiate lien proceedings to collect any penalty due that has not been paid. In addition, the Department may refer any unpaid penalty that is due to a collection agency for the initiation of proceedings to collect the unpaid penalty.

Please see the Notice of Rights on the reverse side that pertains to your rights regarding this action.

CERTIFICATE OF SERVICE

Pursuant to section 440.107(4), F.S., Michelle Newcomer, Compliance Investigator
(print name and title of server)

served a true copy of this 5th Amended Order of Penalty Assessment:

By personal service: Date: _____; Time: _____; Server: _____

By certified mail: Date: _____; Time: _____; Article: _____



NOTICE OF RIGHTS

You have a right to administrative review of this action by the Department under Sections 120.569 and 120.57, Florida Statutes.

To obtain review, you must file a written petition requesting review. If you dispute a material fact contained in this action, you are entitled to a hearing under Section 120.569 and 120.57(1), Florida Statutes, at which you may be represented by counsel, present evidence and argument on the issue(s), examine witnesses, submit a proposed recommended order, and file exceptions to the recommended order of the Administrative Law Judge. If you do not dispute a material fact contained in this action, you are entitled to a hearing under section 120.57(2), Florida Statutes, at which you may be represented by counsel, present documentary evidence, and present a written statement in opposition to this action.

A petition for a hearing under Section 120.569 and 120.57, Florida Statutes, must conform to rules 28-106.2015, Florida Administrative Code. The petition shall contain a) the name, address, and telephone number, and facsimile number (if any) of the petitioner; b) the name, address, and telephone number, and facsimile number of the attorney or qualified representative of the petitioner (if any) upon whom service of pleadings and other papers shall be made; c) a statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the petition must so indicate; d) a statement of when the petitioner received notice of the agency action; and e) a statement including the file number to the agency action;

You must file the petition for hearing so that it is received by the Department within twenty-one (21) days of your receipt of this agency action. The petition must be filed with the General Counsel acting as the Agency Clerk, Department of Financial Service, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0333. **FAILURE TO FILE A PETITION FOR HEARING WITHIN THE TWENTY-ONE (21) DAYS CONSTITUTES A WAIVER OF YOUR RIGHT TO ADMINISTRATIVE REVIEW OF THE AGENCY ACTION.**

Mediation under section 120.573, Florida Statutes, is not available.

ISSUING AGENCY NAME AND ADDRESS

Division of Workers' Compensation, Bureau of Compliance: _____

610 E. Burgess Road, Pensacola, FL 32504-6320

Attn: Michelle Newcomer, Compliance Investigator _____, Telephone: (850) 453-7853

State of Florida, Department of Financial Services
 Division of Workers' Compensation, Bureau of Compliance
 Penalty Worksheet

BUSINESS NAME: JOHN BICKNAS LLC

DWC Case No. 08-117-1A

Employee Name	(a) Class Code	(b) Period of Non-Compliance		(c) Gross Payroll	(d) Column (c) / 100	(e) Approved Manual Rate	(f) Premium (d) x (e)	(g) Penalty** (f) x 1.5
		01/01/2006	12/31/2006					
JOHN BICKNAS	5606	01/01/2006	12/31/2006	10,546.00	105.46	3.84	404.97	607.46
WAGES	5645	01/01/2006	12/31/2006	29,880.85	298.81	35.12	10,504.15	15,741.23
JOHN BICKNAS	5606	01/01/2007	12/31/2007	50,347.86	503.48	3.41	1,726.88	2,590.32
JOHN BICKNAS	5606	01/01/2008	03/25/2008	13,587.86	135.88	2.74	372.31	558.47
CHASE ALDERMAN	5474	03/19/2008	03/25/2008	1,119.00	11.19	9.73	108.88	163.32
Part 1 Penalty Sub-Totals:				113,481.57			13,569.97	20,354.97

* If the employer has failed to provide business records sufficient to enable the Department to determine the employer's payroll, payroll shall be imputed to be the statewide average weekly wage as defined in s.440.12(2) F.S. multiplied by 1.5, (440.107(7)(e)).

** Premium multiplied by statutory factor of 1.5

*** Greater of penalty under column (g) or \$1000. s.440.107(d)(1)

TOTAL PENALTY for Parts 1, 2, 3, 4, 5: \$20,054.97