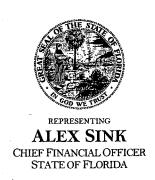
2010 NAR 30 A 11: 22

BIVISION OF ADMINISTRATIVE REARINGS



000183

FILED

MAR 29 2010

Chief Financial Officer
Docketed by: 446

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 2<sup>nd</sup> Amended Order of Penalty Assessment, the 3<sup>rd</sup> Amended Order of Penalty Assessment, the 4<sup>th</sup> Amended Order of Penalty Assessment and the 5<sup>th</sup> 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.
- 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.
- 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 2<sup>nd</sup> Amended Order of Penalty Assessment to JOHN BICKNAS LLC in Case No. 08-117-1A. The 2<sup>nd</sup> Amended Order of Penalty Assessment assessed a total penalty of \$59,861.05 against JOHN BICKNAS LLC.
- 8. On April 11, 2008, the 2<sup>nd</sup> Amended Order of Penalty Assessment was served on JOHN BICKNAS LLC by personal service. A copy of the 2<sup>nd</sup> 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 2<sup>nd</sup> 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 4<sup>th</sup> 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 5<sup>th</sup> Amended Order of Penalty Assessment to JOHN BICKNAS LLC in Case No. 08-117-1A. The 5<sup>th</sup> Amended Order of Penalty Assessment assessed a total penalty of \$20,054.97 against JOHN BICKNAS LLC.
- 16. On September 25, 2008, this 5<sup>th</sup> Amended Order of Penalty Assessment was filed in DOAH Case No. 08-2236. A copy of the 5<sup>th</sup> Amended Order of Penalty Assessment is attached hereto as "Exhibit F" and incorporated herein by reference.
- 17. On September 25, 2008, based upon the 5<sup>th</sup> 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 2<sup>nd</sup> Amended Order of Penalty Assessment issued on April 11, 2008, the 3<sup>rd</sup> Amended Order of Penalty Assessment issued on July 8, 2008, the 4<sup>th</sup> Amended Order of Penalty Assessment issued on August 12, 2008, and the 5<sup>th</sup> 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 2<sup>nd</sup> Amended Order of Penalty Assessment, the 4<sup>th</sup> Amended Order of Penalty Assessment, the 4<sup>th</sup> 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:

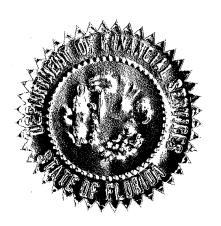
- a. JOHN BICKNAS LLC shall immediately pay the total penalty of \$20,054.97 in full to the Department of Financial Services for deposit into the Workers' Compensation Administration Trust Fund; and
- JOHN BICKNAS LLC shall immediately cease all business operations in the
   State of Florida until such 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 agree day of Monch, 2010.

BRIAN LONDON

DEPUTY CHIEF FINANCIAL OFFICER



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

	DIVISION OF WORKE	ERS' COMPENSATION	
EMPLOYER NAME:		····	STOP-WORK ORDER No.:
John Bicknas LLC			08-117-1A
FEIN: - 14-1907153			ISSUANCE DATE: 3/25/2008
EMPLOYER ADDRESS: 7205	Community Dr		0,20,2000
CITY: Pensacola	-	ATE: FL	<b>ZIP:</b> 32526
WORKSITE POSTING ADDRI			ZIF. 32320
CITY: Pensacola		ATE: FL	<b>ZIP:</b> 32507
INDUSTRY OF EMPLOYER:		construction	
	STOP-W	<b>ORK ORDER</b>	
Pursuant to section 440.107, F OPERATIONS FOR ALL WOR	S., the above-referenced Emr	olover is hereby ORDERE	D TO CEASE ALL BUSINESS
■ Failure to secure the payme F. S., by:	nt of workers' compensation in	violation of sections 440	.10(1), 440.38(1), and 440.107(2)
materially understa	verage that meets the requirem ting or concealing payroll; senting or concealing employe		o, and the Insurance Code;
materially misrepre	senting or concealing informat		
Failure to produce required	nodification factor. business records within 5 busil documents within 3 business d	ness days in violation of s	section 440 107(7)(a) E.S.
THIS STOP-WORK ORDER M. EFFECT UNTIL THE DIVISION	AY BE AMENDED TO INCLUD I ISSUES AN ORDER RELEAS	DE ADDITIONAL VIOLAT	IONS AND SHALL REMAIN IN ORDER FOR ALL WORKSITES.
IF THE EMPLOYER CONDUCTION OF \$1,000.00 PER I	TS ANY BUSINESS OPERATION OF VIOLENCE OF V	IONS IN VIOLATION OF LATION SHALL BE ASS	THIS STOP-WORKEORDER ASSED.
ORDER OF PENAL A penalty against the Employer	is hereby ORDERED in an am	ount:	NOV 1 7 2008
Equal to 1.5 times the amount	nt the employer would have pa s for which it failed to secure t	id in premium when apply	PUREAU OF COMMUNICATION OF PROPERTY OF THE PRO
			contractor. Sections 440.10(1)(f)
The penalty may be amended up Pursuant to section 440.107(11) not been paid. In addition, the D of proceedings to collect the unp	i, F.S., the Department may ini Department may refer any unpa	tiate lien proceedings to d	m Stop-Work Order is issued. collect any penalty due that has a collection agency for the initiation
	CERTIFICATE	OF SERVICE	EXHIBIT
Pursuant to section 440.107(4),		mpliance Investigator	abbies:
served a true copy of this Stop-V	Vork 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	-220 Server V	MARINIAMEN
1 1	Date:; Time:	-	
1			

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 <u>received</u> 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.

ISSUING AGENCY AND ADDRESS	
Division of Workers' Compensation, Bureau of Compliance	ce
610 E. Burgess Rd., Pensacola, FL 32504	
Michelle Newcomer Attn:, Telep	(850) 453-7853 bhone:

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

•	DIV	ISION OF WORKERS	COMPENSATION	
EMPLOYER NAME:				STOP-WORK ORDER No.:
John Bicknas LLC				08-117-1A
FEIN:				
14-1907153				ISSUANCE DATE: 4/3/2008
EMPLOYER ADDRES	SS: 7205 Community	Dr.		4/3/2008
CITY: Pensacola			TATE: FL	ZIP: 32526
AME	ENDED OR	DER OF PE	NALTY AS	SESSMENT
included an Older of P	enaity Assessment	sued a Stop-Work Orde that identified the pena ler of Penalty Assessm	ilties assessable un	The Stop-Work Order der sections 440.10 and 440.107, lowing penalties:
materially un	derstating or conce	eets the requirements o aling payroll	of Chapter 440, F.S.	ction 440.107(2), F.S., by: , and the Insurance Code;
materially m		concealing information		oper classification for premium computation and application of an
expensioe is	amig mounication la	GIOI .		
For such violation(s) th as detailed in the attack	e Employer is asset hed PENALTY WOI	ssed a penalty of \$ <u>117</u> RKSHEET, which is inc	,098.93 (s orporated herein by	section 440.107(7)(d), F.S.) reference;
Conducting busin WORKSHEET, which	is incorporated r	nerein by reference,	o-Work Order as of for which the Em	letailed in the attached PENALTY aployer is assessed a penalty of
FEMALIT WORKSHE	he status of the eET, which is incorp (section 440.10(1))	orated herein by refer	dependent contract ence, for which the	or(s), as detailed on the attached Employer is assessed a penalty of
It is hereby ORDERED	that the Employer is	s assessed a TOTAL P	ENALTY of \$_117,0	98.93
The penalties assessed TOTAL PENALTY by m Administration Trust I	loney order or cash	any penalties previousl ier's check, made paya	y assessed in this cable to the <b>DFS-Wor</b> ld	ase. The Employer shall pay the kers' Compensation
requirements of the w Order of Conditional F	ork Order upon find orkers' compensa Release From Stop as of the workers' of	ding that the employe tion law and pays the Work Order pursuan	r has come into co total penalty in ful t to the employer c	e Division issues an order mpliance with the coverage I, or (b) The Division issues an oming into compliance with the syment Agreement Schedule For
Pursuant to section 440 not been paid. In additing initiation of proceedings	ion, the Department	may refer any unnaid i	lien proceedings to penalty that is due to	collect any penalty due that has a collection agency for the
		CERTIFICATE OF	SERVICE	
Pursuant to section 440	107(4), F.S., Miche			
erved a true copy of th	is Amended Order o			
By hand delivery:	Date: 4 / 3 / 0	98; Time: $90$		Intercomer
By certified mail:	Date:	; Time:	; Article:	MP6PATADE
anuary 3, 2006			EXHIB	IT NEWSUVE
			:ទ	EED 1 m 2000

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.

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ISSUING AGENCY AND ADDRESS			
Division of Workers' Compensation, Bureau of Co	mpliance		
610 E. Burgess Rd., Pensacola, FL 32504			
Michelle Newcomer	, Telephone:	(850) 453-7853	
Auli,	<del>, -</del>	_	

### 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** 

(d) (e) (e) (column (c) Approximate (d)	yee Name         (a) Class Code         Period of Non-Compliance         (c) Gross Payroll **           Code         Non-Compliance         Payroll **           5645         04/01/2005         12/31/2005         56,913.75           \$645         01/01/2005         12/31/2007         73.821.50           \$5645         01/01/2007         12/31/2007         73.821.50           \$MAN         5474         01/01/2008         03/25/2008         9.058.45           \$5606         01/01/2007         12/31/2007         10,546.00           \$5606         01/01/2007         12/31/2007         12,357.00	
5645         04/01/2005         12/31/2005         56,913.75         569.14         38.40         21,854.86         21,854.86         22,232.08           S645         01/01/2006         12/31/2007         73,821.50         738.22         27.71         20,455.94         35.12         32,232.08           SAMAN         5645         01/01/2008         03/25/2008         9,058.45         90,58         20.04         1,815.31           S         5606         01/01/2006         12/31/2007         10,546.00         406.46         3.84         404.97           S         5606         01/01/2007         12/31/2007         12/357.00         403.67         3.44         404.97	5645       04/01/2005       12/31/2005         5645       01/01/2006       12/31/2006         6545       01/01/2007       12/31/2007         AMAN       5474       01/01/2008       03/25/2008         6506       01/01/2007       12/31/2006	Gross Column (c) (e) Gross Column (c) Approved Pavroll 1100
5645         01/01/2006         12/31/2006         91,777.00         917.77         35.12         32.232.08           .5         5645         01/01/2008         12/31/2007         73,821.50         738.22         27.71         20,455.94           .S         5645         01/01/2008         03/25/2008         9,058.45         90;58         20.04         1,815.31           .S         5606         01/01/2006         12/31/2007         10,546.00         406.46         3.84         404.97           .S         5606         01/01/2007         12/31/2007         12.357.00         40.545.7         3.41         573.53	S645 01/01/2006 12/31/2006 5645 01/01/2007 12/31/2006 5645 01/01/2008 03/25/2008 2474 01/01/2008 03/25/2008 5606 01/01/2006 12/31/2006 25606 01/01/2007 12/31/2007 25/2008 25/	56,913.75 6.569.14 38.40
S 5645 01/01/2007 12/31/2007 73,821.50 738.22 27.71 20,455.94 20.04	S 5645 01/01/2007 12/31/2007 7  NAMAN 5474 01/01/2008 03/25/2008 7  S 5606 01/01/2007 12/31/2006 1  S 5606 01/01/2007 12/31/2007 1	91,777.00 35.12
AAN         5645         01/01/2008         03/25/2008         9,058.45         90,58         20.04         1,815.31         2           AAN         5474         01/01/2008         03/25/2008         9,058.45         90,58         9.73         881.39         1           5606         01/01/2006         12/31/2007         12/357.00	AAN     5645     01/01/2008     03/25/2008       6474     01/01/2008     03/25/2008       5606     01/01/2006     12/31/2006       5606     01/01/2007     12/31/2007	73,821.50 738.22 27.71
AAN         5474         01/01/2008         03/25/2008         9,058.45         90.58         9.73         881.39         1           5606         01/01/2007         12/31/2006         10,546.00         10,546.00         3.84         404.97           5606         01/01/2007         12/31/2007         12/357.00         12/357.00         12/357.00	AAN         5474         01/01/2008         03/25/2008         7           5606         01/01/2006         12/31/2006         1           5606         01/01/2007         12/31/2007         1	9.058.45 90.58
5606         01/01/2007         12/31/2007         12/357 00         12/357 00         12/357 00	5606     01/01/2006     12/31/2006     1       5606     01/01/2007     12/31/2007     1	9.058.45 an ea o 7.3
5606 01/01/2007 12/31/2007 12/35/00 12/35/7	5606 01/01/2007 12/31/2007	10.546.00 fins an 3 84
		12.357.00 493.47 3.41
	Fart 1 Fenalty Sub-Totals: *** 263,532,15	

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)).

Page 1 of 1

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

<sup>\*\*</sup> Premium multiplied by statutory factor of 1.5

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

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

EMPLOYER NAME:		STOP-WORK ORDER No.:
John Bicknas LLC		08-117-1A
FEIN: 14-1907153		<b>ISSUANCE DATE:</b> 4/11/2008
EMPLOYER ADDRESS: 7205 Community Dr. CITY: Pensacola	STATE: FL	<b>ZIP:</b> 32526
2nd AMENDED ORDE	ER OF PI	ENALTY ASSESSMENT
The Division of Workers' Compensation issued a Stop-V 3/25/2008 . The Stop-Work Order included an Ord under sections 440.10 and 440.107, F.S.	Vork Order agair der of Penalty As	nst the above-referenced Employer on seessment that identified the penalties assessable
Based upon additional record received		
the Division hereby amends the Amended Order of Pena and assesses the penalty(s) as specified in the Penalty \	alty Assessment	issued on 4/3/2008 h is attached hereto and made a part hereof
It is ORDERED that the Employer is hereby assessed a	TOTAL PENALT	TY of \$ <u>59,861.05</u>
The penalty(s) assessed herein supersedes any penalty TOTAL PENALTY by money order or cashier's check, m Administration Trust Fund, or enter into a Payment Ag Division of Workers' Compensation.	ade pavable to t	he DES-Workers' Compensation
If the total penalty assessed in this Amended Order of Pe Amended Order of Penalty Assessment issued on 4/3/200 difference to the Employer.	enalty Assessme 08, the [	ent is less than the total penalty assessed in the Division will mail a refund in the amount of the
Pursuant to section 440.107(11), F.S, the Department mabeen paid. In addition, the Department may refer any un proceedings to collect the unpaid penalty.	ay initiate lien pr paid penalty tha	oceedings to collect any penalty due that has not t is due to a collection agency for the initiation of
CERTIFIC	ATE OF SERVI	CE
Pursuant to section 440.107(4), F.S., Michelle Newcomer, Co	ompliance Investiga	tor,
served a true copy of this 2nd Amended Order of Pen		
By personal service: Date: 1 1 08; Tim	10.10	Server: MNCWUMCK
☐ By certified mail: Date:; Tim	ne:	; Article:
		EXHIBIT
		tab bles.

January 3, 2006

24

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.

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ISSUING AGENCY AND ADDRESS			
Division of Workers' Compensation, Bureau of 610 E. Burgess Rd., Pensacola, FL 32504	of Compliance		
Michelle Newcomer	, Telephone:	(850) 453-7853	
	, rerepnone.		

### 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-Complia	(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	04/01/2005 12/31/2005	6,888.75	68.89	38.40	2,645.28	3,967.92
2006 WAGES	5645	01/01/2006	12/31/2006	37,822.00	378.22	35.12	13,283,09	19,924.64
2007 WAGES	5645	01/01/2007	12/31/2007	73,821.50	738:22	27.71	20,455,94	30,683.91
JOHN BICKNAS	5645	01/01/2008	03/25/2008	9,058.45	90,58	20.04	1,815.31	2,722.97
CHASE ALDERMAN	5474	01/01/2008	03/25/2008	9,058.45	90.58	9.73	881.39	1,322.09
JOHN BICKNAS	9099	01/01/2006	12/31/2006	10,546.00	105.46	3.84	404.97	607.46
JOHN BICKNAS	5606	01/01/2007   12/31/2007	12/31/2007	12,357.00	123.57	3.41	421.37	632.06
	Part 1 Pe	Part 1 Penalty Sub-Totals: ***		159,552.15		Manna.	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)).

Page 1 of 1

TOTAL PENALTY for Parts 1, 2, 3, 4, 5, 6: \$59,861:05

<sup>\*\*</sup> Premium multiplied by statutory factor of 1.5

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

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

EMPLOYER NAME:	···		***	STOP-WORK ORDER No.:
John Bicknas LLC				08-117-1A
FEIN: 14-1907153	-			ISSUANCE DATE: 7/8/2008
EMPLOYER ADDRESS	: 7205 Community			
CITY: Pensacola			ATE: FL	ZIP: 32526
···	•			TY ASSESSMENT
3/25/2008 . The S under sections 440.10 a	top-Work Order	included an Order of	Order against the ab Penalty Assessmen	ove-referenced Employer on t that identified the penalties assessable
Based upon changes in cla	ess code and change	es to payments made to I	Michael Brouwer	
the Division hereby ame and assesses the penalt	nas the Amenae y(s) as specified	d Order of Penalty A in the Penalty Work	ssessment issued or sheet, which is attaci	hed hereto and made a part hereof.
				,
It is ORDERED that the	Employer is here	by assessed a TOT	AL PENALTY of \$ 74	4,362.20
TOTAL PENALTY by mo	oney order or cas und, or enter into	shier's check, made :	payable to the DFS-V	this case. The Employer shall pay the Norkers' Compensation riodic Payment of Penalty with the
If the total penalty assess Amended Order of Pena difference to the Employe	lty Assessment i	ded Order of Penalty ssued on 4/11/2008	Assessment is less	than the total penalty assessed in the vill mail a refund in the amount of the
Pursuant to section 440. been paid. In addition, the proceedings to collect the	ne Department m	nay refer any unpaid	tiate lien proceeding penalty that is due to	s to collect any penalty due that has not a collection agency for the initiation of
		AFPERIALE	A. A	
		CERTIFICATE	OF SERVICE	
Pursuant to section 440.	107(4), F.S., <u>Mid</u>	helle Newcomer, Complia	nce investigator	, , , , , , , , , , , , , , , , , , , ,
served a true copy of this	3rd Amend	ed Order of Penalty	Assessment:	
By personal service:	Date:	; Time:	; Sen	/er;
By certified mail:	Date:	; Time:	; Artic	ole:
		· · · · · · · · · · · · · · · · · · ·	<del>,</del>	EXHIBIT
				nabbles D

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### **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'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 rules or statutes the petitioner contends require a 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; 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 <u>received</u> 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 I	NAME AND ADDRESS	 <b>Tarin</b> o 1 4
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	Imputed	(a) Class Code	(b) Period of Non-Comulia	(b) Period of Non-Compliance	(c) Gross Payroll *	(d) Column (c) /100	(e) Approved Mariual Rate	(f) Premium (d) x (e)	(g) Penalty** (f) x 1.5
2005 WAGES		5645	04/01/2005	12/31/2005	6,888.75	68.89	38.40	2,645.28	3,967.92
2006 WAGES		5645	01/01/2006	12/31/2006	89,977.00	899.77	35.12	31,599.92	47,399,88
2007 WAGES		5645	01/01/2007	12/31/2007	19,866.50	198.67	27.71	5,505.01	8,257.52
JOHN BICKNAS		5645	01/01/2008	03/25/2008	9,058.45	90.58	20.04	1,815.31	2,722.97
CHASE ALDERMAN		5474	01/01/2008	03/25/2008	9,058.45	90.58	9.73	881.39	1,322.09
JOHN BICKNAS		5645	01/01/2006	12/31/2006	10,546.00	105.46	35.12	3,703.76	5,555.64
JOHN BICKNAS		5645	01/01/2007	12/31/2007	12,357.00	123.57	27.71	3,424,12	5,136.18
	770	Part 1 Per	Part 1 Penalty Sub-Totals: ***	S: ***	157 752 15		Second	49 574 78	74 369 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)).

Page 1 of 1

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

<sup>\*\*</sup> Premium multiplied by statutory factor of 1.5

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

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

EMPLOYER NAME:			STOP-WOR	RK ORDER No.:
John Bicknas LLC			08-117-1A	
•			ISSUANCE	DATE:
FEIN: 14-1907153		,	8/12/2008	
			1000	·
EMPLOYER ADDRESS: 7205 Community Dr.				
CITY: Pensacola	STATE:	FL	ZIP:	32526
4th AREADED ODDE	- a- a-			COMENT
4th AMENDED ORDE	R OF PE	NAL	IY ASSE	SOMENI
The Division of Workers' Compensation issued a Stop-Work 3/25/2008. The Stop-Work Order included an Order of Peunder 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 Assessmer specified in the Penalty Worksheet, which is attached here	nt issued on to and made a	7/8/2008 part hereo	and assesses f.	the penalty(s) as
It is ORDERED that the Employer is hereby assessed a TO	TAL PENALT	Y of \$ 169,	896.64	
The penalty(s) assessed herein supersedes any penalty(s) TOTAL PENALTY by money order or cashier's check, mad <b>Administration Trust Fund</b> , or enter into a Payment Agree Division of Workers' Compensation.	e payable to th	ie DFS-Wo	orkers' Compe	nsation
If the total penalty assessed in this Amended Order of Penalty Assessment issued on	alty Assessme 008 the Divi	nt is less th sion will m	nan the total per all a refund in th	nalty assessed in the ne amount of the
Pursuant to section 440.107(11), F.S, the Department may been paid. In addition, the Department may refer any unpaproceedings to collect the unpaid penalty.				
Please see the Notice of Rights on the reserve s	ide that pertains	to your righ	ts regarding this a	ction.
CERTIFICA	TE OF SERVICE	E		
Pursuant to section 440.107(4), F.S., Michelle Newcomer,	Compliance In	nvestigator	•	· · · · · · · · · · · · · · · · · · ·
served a true copy of this 4th Amended Order of Penal	ty Assessment			
By personal service: Date:; Time		; Se	erver;	
By certified mail: Date:; Time		; Ar	ticle:	
	·		and the same of	

EXHIBIT EXHIBIT

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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 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 <u>received</u> 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.** 

ISSUING AGE	NCY NAME AND ADDRESS	
Division of Workers' Compensation, Bureau of Compl	iance:	
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	Imputed	(a) Class Code	(b) Period of Non-Complia	(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
OHN BICKNAS	<u> </u>	5645	03/26/2005	12/31/2005	44,919.86	449.20	38.40	17,249.23	25,873.85
CHASE ALDERMAN	Σ	5645	03/26/2005	12/31/2005	44,919,86	449.20	38.40	17,249.23	25,873.85
JOHN BICKNAS	<u>D</u>	5645	01/01/2006	12/31/2006	58,347.86	583.48	35.12	20,491.77	30,737.66
CHASE ALDERMAN	Ŋ	5645	01/01/2006	12/31/2006	58,347.86	583.48	35.12	20,491.77	30,737,66
OHN BICKNAS		5645	01/01/2007	12/31/2007	58,347.86	583.48	27.71	16,168.19	24,252.29
CHASE ALDERMAN		5645	01/01/2007	12/31/2007	58,347.86	583.48	27.71	16,168.19	24,252.29
OHN BICKNAS	$\Sigma$	5645	01/01/2008	03/25/2008	13,587.86	135.88	20.04	2,723.01	4,084.52
CHASE ALDERMAN	<u> </u>	5645	01/01/2008	03/25/2008	13,587.86	135.88	20.04	2,723.01	4,084.52
		Part 1 Pen	Part 1 Penalty Sub-Totals: ***	** ; <u>s</u> i	350,406.88		Action to	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)).

Page 1 of 1

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

<sup>\*\*</sup> Premium multiplied by statutory factor of 1.5

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

PAGE 04/05

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

John Bicknas LLC	_			STOP-WORK 0 08-117-1A	RDER No.:
FEIN: 14-1907153				ISSUANCE DAT 9/24/2008	E:
EMPLOYER ADDRESS:	7205 Community Dr.				
CITY: Pensacola	and the second s	STATE:	FL Z	IP: 3	2526
5th <b>_</b>	MENDED ORDE	R OF PE	NALT	Y ASSES	SMENT
The Division of Workers' C 3/25/2008 The Stop-Working under sections 440.10 and	Compensation issued a Stop-Work Order included an Order of Fig. 440.107, F.S.	ork Order agains enalty Assessm	it the above- ent that iden	referenced Emplo tified the penalties	yer on s assessable
Based upon Explanation of					, the Division
hereby amends the Amend specified in the Penalty Wo	ded Order of Penalty Assessme orksheet, which is attached hen	ent issued ont eto and made a	part hereof.	and assesses the	penalty(s) as
It is ORDERED that the En	nployer is hereby assessed a T	OTAL PENALT	of \$ 20,054.	97	
TOTAL PENALTY by mone	erein supersedes any penalty(s ey order or cashier's check, ma nd, or enter into a Payment Agn ensation.	de pavable to th	e DFS-Work	ters' Compensati	ion
If the total penalty assesse Amended Order of Penalty difference to the Employer.	d in this Amended Order of Per Assessment issued on 8/12	naity Assessmer /2008 the Divis	at is less than sion will mail	n the total penalty a refund in the ar	assessed in the nount of the
Pursuant to section 440.10 been paid. In addition, the proceedings to collect the u	7(11), F.S, the Department ma Department may refer any unp unpaid penalty.	y initiate lien pro aid penalty that	ceedings to o	collect any penalty ollection agency fi	y due that has not or the initiation of
Please soo	the Notice of Rights on the reserve	side that pertains t	o your rights r	egarding this action.	
	CERTIFICA	TE OF SERVIC	E		
Pursuant to section 440.10	7(4), F.S., Michelle Newcomer	, Compliance in	vestigator		
served a true copy of this 5	Amended Order of Pena	ilty Assessment:			
	Date:; Time	e:	; Serv	er:	**************************************
By certified mail:	Date:; Time	e:	; Artic	le:	******
				•••	



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 <u>received</u> 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.

Y NAME AND ADDRESS		
ce:		· 
, Telephone: (850) 453-7853		
	ce:	ce:

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PAGE

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

JOHN BICKNAS LLC BUSINESS NAME:

Penalty Worksheet

08-117-1A DWC Case No.

control of the contro		coverage ma		dulrements of	Chapter 4	O. E.S. and th	e Insurance (	2010
Employee Name	(a) Class Code	(b) Period of Non-Complia	(b) Period of Non-Compliance	(c) Gross Payroll *	(df) otumin (c)	Approved: Manual Rate	(f) Premium (d) x (e)	(g) Penalty**
JOHN BICKNAS	5606	01/01/2006	12/31/2006	10,546.00	105.46	3.84	40497	607.46
WAGES	5645	01/01/2006	12/31/2006	29,880.85	298.81	35.12	10,494:15	(5,74123
JOHN BICKNAS	5608	01/01/2007	12/31/2007	58,347.86	583,48	3.41	1,989.66	2,094.49
JOHN BICKNAS	5608	01/01/2008	03/25/2008	13,587,86	(18588	2.74	372.31	\$5847
CHASE ALDERMAN	5474	03/19/2008	03/25/2008	1,119,00	A. 10.00	9.73	108.86	166.32
.**	Part 1 Pe	Part 1 Penalty Sub-Totals	als	113,481.57	•		13,369.97	20,054.97

If the employer has falled 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 ŧ

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

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TOTAL PENALTY for Patts 4: 2: 3: 4: 5: 520.054.97