



REPRESENTING
ALEX SINK
 CHIEF FINANCIAL OFFICER
 STATE OF FLORIDA

FILED

OCT 22 2009

Chief Financial Officer
 Docketed by:

IN THE MATTER OF:

Case Number: 07-293-1A-09-WC

TORRES AND SONS CONSTRUCTION,
 LLC

FINAL ORDER

FILED
 2009 OCT 23 AM 11:58
 DIVISION ONE
 ADMINISTRATIVE
 HEARINGS

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 and the Third Amended Order of Penalty Assessment served in Division of Workers' Compensation Case No. 07-293-1A, and being otherwise fully advised in the premises, hereby finds that:

1. On July 17, 2007, the Department of Financial Services, Division of Workers' Compensation (hereinafter "Department") issued a Stop-Work Order and Order of Penalty Assessment in Division of Workers' Compensation Case No. 07-293-1A to TORRES AND SONS CONSTRUCTION, LLC. The Stop-Work Order and Order of Penalty Assessment included a Notice of rights wherein TORRES AND SONS CONSTRUCTION, 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 July 17, 2007 the Stop-Work Order and Order of Penalty Assessment was served via personal service on TORRES AND SONS CONSTRUCTION, 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. On October 17, 2007, the Department issued an Amended Order of Penalty Assessment to TORRES AND SONS CONSTRUCTION, LLC in Case No. 07-293-1A. The Amended Order of Penalty Assessment assessed a total penalty of \$168,435.44 against TORRES AND SONS CONSTRUCTION, LLC. The Amended Order of Penalty Assessment included a Notice of Rights wherein TORRES AND SONS CONSTRUCTION, 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.

4. The Amended Order of Penalty Assessment was served on TORRES AND SONS CONSTRUCTION, LLC by personal service on October 17, 2007. A copy of the Amended Order of Penalty Assessment is attached hereto as "Exhibit B" and incorporated herein by reference.

5. On November 7, 2007, TORRES AND SONS CONSTRUCTION, LLC timely filed a Petition for an informal administrative hearing in accordance with Sections 120.569 and 120.57, Florida Statutes. The Petition was assigned an Informal Hearing Officer, and assigned Case No. 07-293-1A.

6. On February 19, 2008, the Department and TORRES AND SONS CONSTRUCTION, LLC jointly filed a Motion to Transfer Jurisdiction to the Division of Administrative Hearings. Accordingly, on February 20, 2008, the Informal Hearing Officer in

Case No. 07-293-1A entered an Order Cancelling Hearing and Closing Hearing Officer's File. The Petition filed by TORRES AND SONS CONSTRUCTION, LLC was forwarded to the Division of Administrative Hearings and assigned Case No. 08-5953.

7. On September 8, 2009, the Department issued a Third Amended Order of Penalty Assessment to TORRES AND SONS CONSTRUCTION, LLC in Case No. 07-293-1A. The Third Amended Order of Penalty Assessment assessed a total penalty of \$6,837.57 against TORRES AND SONS CONSTRUCTION, LLC. The Third Amended Order of Penalty Assessment was served on TORRES AND SONS CONSTRUCTION, LLC through the Division of Administrative Hearings. A copy of the Third Amended Order of Penalty Assessment is attached hereto as "Exhibit C" and is incorporated herein by reference.

8. On October 1, 2009, TORRES AND SONS CONSTRUCTION, LLC filed a Notice of Dismissal in DOAH Case No. 08-5953. A copy of the Notice of Voluntary Dismissal filed by TORRES AND SONS CONSTRUCTION, LLC is attached hereto as "Exhibit D."

9. On October 2, 2009, Administrative Law Judge Suzanne F. Hood entered an Order Closing File, relinquishing jurisdiction to the Department. A copy of the October 2, 2009 Order Closing File is attached hereto as "Exhibit E."

FINDINGS OF FACT

10. The factual allegations in the Stop-Work Order and Order of Penalty Assessment issued on July 17, 2007, and the Third Amended Order of Penalty Assessment issued on September 8, 2009, which are fully incorporated herein by reference, are hereby adopted as the Department's Findings of Fact in this case.

CONCLUSIONS OF LAW

11. Based on the Findings of Fact adopted herein, the Department concludes that TORRES AND SONS CONSTRUCTION, LLC violated the specific statues and rules alleged in the Stop-Work Order and Order of Penalty Assessment and the Third Amended Order of Penalty Assessment, and hereby adopts the violations charged in the Stop-Work Order and Order of Penalty Assessment and the Third Amended Order of Penalty Assessment as the Conclusions of Law in this case.

PENALTY IMPOSED

14. The voluntary dismissal of the Petition for formal hearing, wherein TORRES AND SONS CONSTRUCTION, LLC no longer contested the Third Amended Order of Penalty Assessment pursuant to Sections 120.569 and 120.57, Florida Statutes, 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.

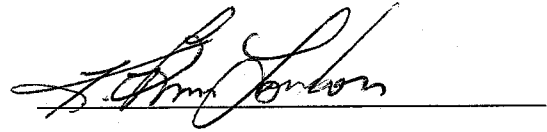
IT IS THEREFORE ORDERED that:

a) TORRES AND SONS CONSTRUCTION, LLC shall immediately pay the total penalty of \$6,837.57 in full to the Department of Financial Services for deposit into the Workers' Compensation Trust Fund;

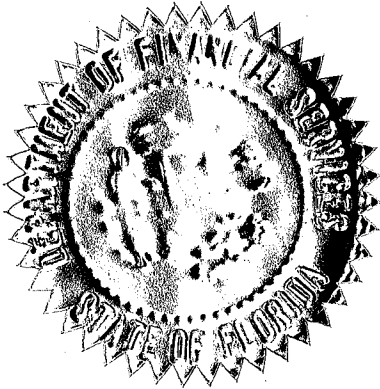
b) TORRES AND SONS CONSTRUCTION, LLC shall immediately cease all business operations in the State of Florida until such time as the Department issues an order releasing the Stop-Work Order and Order of Penalty Assessment. The Department shall not issue an order releasing the Stop-Work Order and Order or Penalty Assessment until TORRES AND SONS CONSTRUCTION, LLC. has come into compliance with the coverage

requirements of Chapter 440, Florida Statutes, and has paid a total penalty of \$6,837.57 to the Department.

DONE AND ORDERED this 22nd day of October, 2009.



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 Florida Rule of Appellate Procedure 9.110. Review proceedings must be instituted by filing a Notice of Appeal with the Agency Clerk at Room 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida, 32399-0333 and a copy of the Notice of Appeal, a copy of this Order and filing fee with the appropriate District Court of Appeal within thirty (30) days of rendition of this Order.

Copies furnished to:

Torres and Sons Construction, LLC
c/o Yaw Akuoko, Esq.
2003 Apalachee Parkway
Tallahassee, Florida 32301

Timothy L. Newhall
Assistant General Counsel
Department of Financial Services
200 E. Gaines Street
Tallahassee, FL 32399-4229