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OCT 25 2011

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CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

Chief Financial Officer
Docketed by: WAB

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DIVISION OF
ADMINISTRATIVE
HEARINGS

IN THE MATTER OF:

Case Number: 08-291-D1-WC

WAINWRIGHT CONSTRUCTION AND
ROOFING, INC.

FINAL ORDER

THIS PROCEEDING came on for final agency action and Jeff Atwater, Chief Financial Officer of the State of Florida, or his designee, having considered the record in this case, including the Stop-Work Order and Order of Penalty Assessment and the 4th Amended Order of Penalty Assessment served in Division of Workers' Compensation Case No. 08-291-D1, and being otherwise fully advised in the premises, hereby finds that:

1. On October 28, 2008, 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. 08-291-D1 to Wainwright Construction and Roofing, Inc. (Wainwright). The Stop-Work Order and Order of Penalty Assessment included a Notice of Rights wherein Wainwright 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 November 3, 2008, the Stop-Work Order and Order of Penalty Assessment was served via certified mail on Wainwright. 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 December 2, 2008, the Department issued an Amended Stop-Work Order to Wainwright. The Amended Stop-Work Order included a Notice of Rights wherein Wainwright was advised that any request for an administrative proceeding to challenge or contest the Amended Stop-Work Order must be filed within twenty-one (21) days of receipt of the Amended Stop-Work Order in accordance with Sections 120.569 and 120.57, Florida Statutes.

4. The Amended Stop-Work Order was served on Wainwright by certified mail on December 8, 2008. A copy of the Amended Stop-Work Order is attached hereto as "Exhibit B" and incorporated herein by reference.

5. On December 2, 2008, the Department issued an Amended Order of Penalty Assessment to Wainwright in Case No. 08-291-D1. The Amended Order of Penalty Assessment assessed a total penalty of \$77,189.76 against Wainwright. The Amended Order of Penalty Assessment included a Notice of Rights wherein Wainwright 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.

6. The Amended Order of Penalty Assessment was served on Wainwright by certified mail on December 8, 2008. A copy of the Amended Order of Penalty Assessment is attached hereto as "Exhibit C" and incorporated herein by reference.

7. On December 24, 2008, Wainwright filed a timely Petition for a formal administrative hearing in accordance with Sections 120.569 and 120.57, Florida Statutes. The

Petition was forwarded to the Division of Administrative Hearings and assigned Case No. 09-0340.

8. On October 6, 2011, the Department issued a 4th Amended Order of Penalty Assessment to Wainwright in Case No. 08-291-D1. The 4th Amended Order of Penalty Assessment assessed a total penalty of \$1,000.00 against Wainwright. The 4th Amended Order of Penalty Assessment was served on Wainwright through the Division of Administrative Hearings. A copy of the 4th Amended Order of Penalty Assessment is attached hereto as "Exhibit D" and is incorporated herein by reference.

9. On October 11, 2011, Wainwright and the Department entered into a settlement agreement pursuant to which Wainwright agreed to pay the penalty assessed in the 4th Amended Order of Penalty Assessment, and accordingly, on October 11, 2011, the Department filed a Notice of Settlement in DOAH Case No. 09-0340. A copy of the Notice of Settlement filed by the Department is attached hereto as "Exhibit E."

10. On October 12, 2011, Administrative Law Judge Lawrence P. Stevenson entered an Order Closing File, relinquishing jurisdiction to the Department. A copy of the October 12, 2011 Order Closing File is attached hereto as "Exhibit F."

FINDINGS OF FACT

11. The factual allegations in the Stop-Work Order and Order of Penalty Assessment issued on October 28, 2008, and the 4th Amended Order of Penalty Assessment issued on October 6, 2011, which are fully incorporated herein by reference, are hereby adopted as the Department's Findings of Fact in this case.

CONCLUSIONS OF LAW

12. Based on the Findings of Fact adopted herein, the Department concludes that Wainwright violated the specific statues and rules alleged in the Stop-Work Order and Order of Penalty Assessment and the 4th Amended Order of Penalty Assessment, and hereby adopts the violations charged in the Stop-Work Order and Order of Penalty Assessment and the 4th Amended Order of Penalty Assessment as the Conclusions of Law in this case.

PENALTY IMPOSED

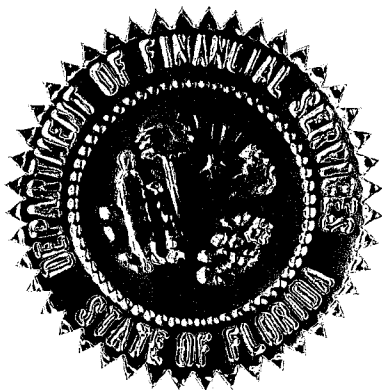
13. The Notice of Settlement and resulting Order Closing File, wherein Wainwright no longer contested the 4th Amended Order of Penalty Assessment pursuant to Sections 120.569 and 120.57, Florida Statutes, taken together with the Findings of Fact and Conclusions of Law adopted herein, constitute grounds 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) Wainwright shall immediately pay the total penalty of \$1,000.00 in full to the Department for deposit into the Workers' Compensation Administration Trust Fund, and demonstrate compliance with the coverage requirements of Chapter 440, Florida Statutes, pursuant to Section 440.107(7)(a), Florida Statutes, based upon its violation of the workers' compensation coverage requirements contained in Chapter 440, Florida Statutes.
- b) Wainwright 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 Wainwright has come into compliance with the coverage requirements of Chapter 440, Florida Statutes, and has paid the total penalty of \$1,000.00 to the Department.

DONE AND ORDERED this 25th day of October, 2011.



A handwritten signature in black ink, appearing to read "Tanner Holloman". The signature is written in a cursive style and is positioned above a horizontal line.

Tanner Holloman
Director, Workers' Compensation

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:

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