



REPRESENTING  
**ALEX SINK**  
CHIEF FINANCIAL OFFICER  
STATE OF FLORIDA

000120  
FILED

**FILED**

FEB 15 2010

10 FEB 17 PM 2:16 Chief Financial Officer  
Docketed by: AB-B

DIVISION OF  
ADMINISTRATIVE  
HEARINGS

IN THE MATTER OF:

REGIONAL CONCRETE, INC.

Case Number: 09-075-1A-10-WC

**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 and the Amended Order of Penalty Assessment served in Division of Workers' Compensation Case No. 09-075-1A, and being otherwise fully advised in the premises, hereby finds that:

1. On March 12, 2009, 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. 09-075-1A to REGIONAL CONCRETE, INC. The Stop-Work Order and Order of Penalty Assessment included a Notice of Rights wherein REGIONAL CONCRETE, INC. 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 12, 2009, the Stop-Work Order and Order of Penalty Assessment was served by personal service on REGIONAL CONCRETE, INC. 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 March 30, 2009, the Department issued an Amended Order of Penalty Assessment to REGIONAL CONCRETE, INC. in Case No. 09-075-1A. The Amended Order of Penalty Assessment assessed a total penalty of \$122,034.51 against REGIONAL CONCRETE, INC. The Amended Order of Penalty Assessment included a Notice of Rights wherein REGIONAL CONCRETE, INC. 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. On April 1, 2009, the Amended Order of Penalty Assessment was served by certified mail on REGIONAL CONCRETE, INC. A copy of the Amended Order of Penalty Assessment is attached hereto as "Exhibit B" and incorporated herein by reference.

5. On April 20, 2009, REGIONAL CONCRETE, INC. filed a petition requesting a formal administrative hearing with the Department. The Department forwarded the petition to the Division of Administrative Hearings on June 8, 2009, and the matter was assigned DOAH Case No. 09-3046.

6. On July 24, 2009, the Department served its discovery requests on REGIONAL CONCRETE, INC., which included interrogatories, requests for admissions, and requests for production. Responses or objections to the discovery were required to be served on the Department within thirty days. REGIONAL CONCRETE, INC. failed to respond to the discovery requests within thirty days.

7. On August 28, 2009, the Department filed a Motion to Compel Discovery. The Honorable P. Michael Ruff, the Administrative Law Judge, entered an Order on Motion to

Compel on September 15, 2009, which required REGIONAL CONCRETE, INC. to serve responses to the requests for admission, interrogatories, and requests for production no later than September 18, 2009.

8. On September 25, 2009, the parties filed a Joint Response to Order Granting Continuance wherein the parties agreed REGIONAL CONCRETE, INC. would submit to the Department responses to the discovery requests by October 23, 2009. Since conferring on the Joint Response to Order Granting Continuance, the Department has made several unsuccessful attempts to reach REGIONAL CONCRETE, INC.

9. On November 3, 2009, the Department filed a Motion to Deem Matters Admitted and to Relinquish Jurisdiction Pursuant to Section 120.57(1)(i), Florida Statutes, with the Division of Administrative Hearings after REGIONAL CONCRETE, INC. failed to respond to the discovery request by October 23, 2009. A hearing on the motion was held on November 20, 2009, during which several unsuccessful attempts were made to contact REGIONAL CONCRETE, INC. The Department also attempted to contact REGIONAL CONCRETE, INC. by telephone after the hearing on the motion, but was unsuccessful. After the hearing on the motion, the Honorable James H. Peterson, III, the Administrative Law Judge, entered an Order to Show Cause which ordered REGIONAL CONCRETE, INC. to show good cause within seven days as to why the Motion to Deem Matters Admitted and to Relinquish Jurisdiction Pursuant to Section 120.57(1)(i), Florida Statutes, should not be granted. A copy of the Order to Show Cause is attached hereto as "Exhibit C" and incorporated herein by reference.

10. On December 3, 2009, the Honorable James H. Peterson, III, entered an Order Closing File deeming the admissions contained in the discovery requests admitted. The Order Closing File further concluded that there were no disputed issues of material fact and

relinquished jurisdiction of the matter to the Department for final disposition. A copy of the Order Closing File is attached hereto as "Exhibit D" and incorporated herein by reference.

#### FINDINGS OF FACT

11. The factual allegations contained in the Stop-Work Order and Order of Penalty Assessment issued on March 12, 2009, and the Amended Order of Penalty Assessment issued March 30, 2009, 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 upon the Findings of Fact adopted herein, the Department concludes that REGIONAL CONCRETE, INC. violated the specific statutes and rules alleged in the Stop-Work Order and Order of Penalty Assessment and the 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 Order of Penalty Assessment as the Conclusions of Law in this case.

#### PENALTY IMPOSED

13. The dismissal of the petition for hearing submitted in reference to the Stop-Work Order and Order of Penalty Assessment and the Amended Order of Penalty Assessment, 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:

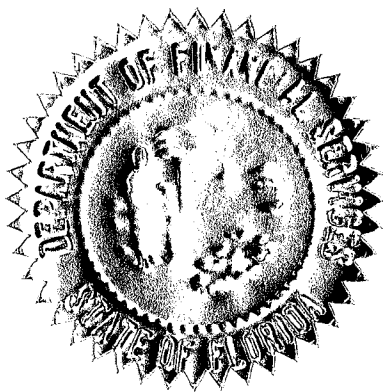
a. REGIONAL CONCRETE, INC. shall immediately pay the total penalty of \$122,034.51 in full to the Department of Financial Services for deposit into the Workers' Compensation Administration Trust Fund; and

b. REGIONAL CONCRETE, INC. 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 REGIONAL CONCRETE, INC. has come into compliance with the coverage requirements of Chapter 440, Florida Statutes, and has paid the total penalty of \$122,034.51 to the Department.

DONE and ORDERED this 15<sup>th</sup> day of February, 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 Florida Rule of Appellate Procedure 9.110. Review proceedings must be instituted by filing a Notice of Appeal with Julie Jones, DFS Agency Clerk, Department of Financial Services, Room 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0390, 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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