



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

**FILED**

OCT 22 2009

Chief Financial Officer  
Docketed by: BBB

IN THE MATTER OF:

BOWSPRIT ENTERPRISES, INC.

Case Number: 09-030-D7-09-WC

**FILED**  
2009 OCT 23 A 10:58  
DIVISION OF  
ADMINISTRATIVE  
HEARINGS

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 Third Amended Order of Penalty Assessment served in Division of Workers' Compensation Case No. 09-030-D7, and being otherwise fully advised in the premises, hereby finds that:

1. On February 4, 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. 09-030-D7 to BOWSPRIT ENTERPRISES, INC. The Stop-Work Order and Order of Penalty Assessment included a Notice of rights wherein BOWSPRIT ENTERPRISES, 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 February 4, 2009, the Stop-Work Order and Order of Penalty Assessment was served via personal service on BOWSPRIT ENTERPRISES, 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 February 25, 2009, the Department issued an Amended Order of Penalty Assessment to BOWSPRIT ENTERPRISES, INC. in Case No. 09-030-D7. The Amended Order of Penalty Assessment assessed a total penalty of \$7,162.81 against BOWSPRIT ENTERPRISES, INC. The Amended Order of Penalty Assessment included a Notice of Rights wherein BOWSPRIT ENTERPRISES, 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. The Amended Order of Penalty Assessment was served on BOWSPRIT ENTERPRISES, INC. by personal service on February 25, 2009. A copy of the Amended Order of Penalty Assessment is attached hereto as "Exhibit B" and incorporated herein by reference.

5. On March 24, 2009, BOWSPRIT ENTERPRISES, INC. filed an untimely Petition for a formal administrative hearing in accordance with Sections 120.569 and 120.57, Florida Statutes. BOWSPRIT ENTERPRISES, INC.'S Petition was received by the Department 27 days from the date that the Amended Order of Penalty Assessment was served.

6. On April 15, 2009, the Department issued a Final Order Denying Petition as Untimely.

7. On May 19, 2009, the Department issued a Second Amended Order of Penalty Assessment to BOWSPRIT ENTERPRISES, INC. in Case No. 09-030-D7. The Second Amended Order of Penalty Assessment lowered the penalty assessed against BOWSPRIT ENTERPRISES, INC. to \$5,778.46. The Second Amended Order of Penalty Assessment

contained a Notice of Rights wherein BOWSPRIT ENTERPRISES, INC. was advised that any request for an administrative proceeding to challenge or contest the Second Amended Order of Penalty Assessment must be filed within 21 days of receipt of the Second Amended Order of Penalty Assessment in accordance with Sections 120.569 and 120.57, Florida Statutes.

8. The Second Amended Order of Penalty Assessment was served on BOWSPRIT ENTERPRISES, INC. by personal service on May 19, 2009. A copy of the Second Amended Order of Penalty Assessment is attached hereto as "Exhibit C" and is incorporated herein by reference.

9. On June 4, 2009, BOWSPRIT ENTERPRISES, INC. 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. 09-3150.

10. On August 19, 2009, the Department issued a Third Amended Order of Penalty Assessment to BOWSPRIT ENTERPRISES, INC. in Case No. 09-030-D7. The Third Amended Order of Penalty Assessment assessed a total penalty of \$1,090.03 against BOWSPRIT ENTERPRISES, INC. The Third Amended Order of Penalty Assessment was served on BOWSPRIT ENTERPRISES, INC. through the Division of Administrative Hearings. A copy of the Third Amended Order of Penalty Assessment is attached hereto as "Exhibit D" and is incorporated herein by reference.

11. On October 14, 2009, BOWSPRIT ENTERPRISES, INC. filed a Notice of Voluntary Dismissal in DOAH Case No. 09-3150. A copy of the Notice of Voluntary Dismissal filed by BOWSPRIT ENTERPRISES, INC. is attached hereto as "Exhibit E."

12. On October 14, 2009 Administrative Law Judge Daniel M. Kilbride entered an Order Closing File, relinquishing jurisdiction to the Department. A copy of the October 14, 2009 Order Closing File is attached hereto as "Exhibit F."

#### FINDINGS OF FACT

12. The factual allegations in the Stop-Work Order and Order of Penalty Assessment issued on February 4, 2009, and the Third Amended Order of Penalty Assessment issued on August 19, 2009, which are fully incorporated herein by reference, are hereby adopted as the Department's Findings of Fact in this case.

#### CONCLUSIONS OF LAW

13. Based on the Findings of Fact adopted herein, the Department concludes that BOWSPRIT ENTERPRISES, INC. 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 BOWSPRIT ENTERPRISES, INC. 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:

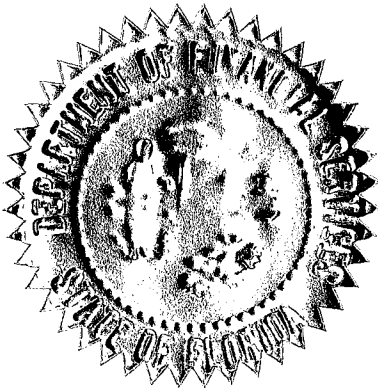
a) BOWSPRIT ENTERPRISES, INC. shall immediately pay the total penalty of \$1,090.03 in full to the Department of Financial Services for deposit into the Workers' Compensation Trust Fund;

b) BOWSPRIT ENTERPRISES, 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 BOWSPRIT ENTERPRISES, INC. has come into compliance with the coverage requirements of Chapter 440, Florida Statutes, and has paid a total penalty of \$1,090.03 to the Department.

DONE AND ORDERED this 22<sup>nd</sup> 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:

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