

STATE OF FLORIDA
DEPARTMENT OF CHILDREN AND FAMILIES

DEPARTMENT OF CHILDREN AND
FAMILIES,

Petitioner,

CASE NO. 09-5002
RENDITION NO. DCF-10-07-FO

v.

TRACEANN HANDY FAMILY DAY CARE
HOME AND TRACEANN HANDY,

Respondents.

FINAL ORDER

THIS CAUSE is before me for entry of a final order. The recommended order finds that the Department established that respondents, a licensed family day care home and its owner/operator, violated minimum standards applicable to such homes provided in chapter 402, Florida Statutes, and chapter 65C-20, Florida Administrative Code. The administrative law judge (ALJ) recommended that the Department impose a \$200 fine for the violations, and further recommended that the respondent's owner/operator be required to attend remedial training on the operation and management of a child care facility.

Respondents filed untimely exceptions to the recommended order. Exceptions must be filed within 15 days of entry of the recommended order. §120.57(1)(k), Fla. Stat; rule 28-106.217, F.A.C. The recommended order in this case was filed on January 13, 2010, and respondents misfiled¹ exceptions with the Division on February 5, or eight days late. In addition to being untimely, the

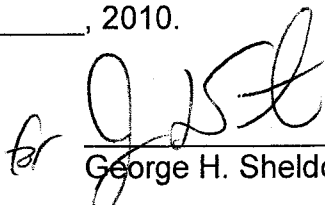
FILED
200 APR 28 P 1:58
DIVISION OF
ADMINISTRATIVE
HEARINGS

FILED
APR 21 2010
DCF Department Clerk

exceptions are legally insufficient. Certain of respondents' exceptions challenge the ALJ's findings of fact, as well as the penalty recommendation, but respondents have not provided a transcript of the proceedings to demonstrate that the contested findings are not supported by competent substantial evidence. These exceptions, therefore, cannot be considered. *Department of Corrections v. Bradley*, 510 So. 2d 1122 (Fla. 1st DCA 1987). Respondents' exceptions also take issue with the ALJ's credibility determinations and the weight the ALJ accorded to specific testimony. These ALJ decisions, however, are not reviewable. *Stinson v. Winn*, 938 So. 2d 554 (Fla. 1st DCA 2006). Respondents' exceptions are rejected. The recommended order is approved and adopted.

Accordingly, a \$200 fine is imposed upon respondents for the family day care home minimum standards violations described in the recommended order. Respondents' family day care home license is also placed in probationary status with the condition that the respondent owner/operator complete remedial training as recommended by the ALJ. During the six-month probationary period, Ms. Handy must complete an instructor-led course of the "Family Child Care Home Rules and Regulations" training module and must pass the competency examination for that module. If respondent completes this requirement prior to the expiration of the six-month period, the probation will be terminated early.

DONE AND ORDERED at Tallahassee, Leon County, Florida, this 21
day of April, 2010.

for 
George H. Sheldon, Secretary

¹ Exceptions must be filed with the forum agency, not the Division. Rule 28-106.217, F.A.C.

RIGHT TO APPEAL

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW WHICH SHALL BE INSTITUTED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF CHILDREN AND FAMILIES, AND A SECOND COPY ALONG WITH FILING FEE AS PRESCRIBED BY LAW, IN THE DISTRICT COURT OF APPEAL WHERE THE APPELLANT RESIDES, OR IN THE FIRST DISTRICT COURT OF APPEAL. REVIEW PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THE FLORIDA RULES OF APPELLATE PROCEDURE. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

Copies furnished to:

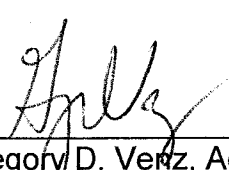
Eugenie G. Rehak
Assistant Regional Counsel
Department of Children and Families
P.O. Box 60085
Fort Myers, FL 33901

Traceann Handy
Traceann Handy Family Daycare Home
4423 32nd Avenue Southwest
Naples, FL 34116

Claudia Llado, Clerk
Division of Administrative Hearing
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, FL 32399-3060

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this Final Order was provided to the above-named individuals at the listed addresses, by U.S. Mail, this 22 day of April, 2010.



Gregory D. Vertz, Agency Clerk
Department of Children and Families
1317 Winewood Blvd.
Bldg. 2, Rm. 204
Tallahassee, FL 32399-0700
Ph: (850) 488-2381