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DIVISION OF  
ADMINISTRATIVE  
HEARINGS



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

Chief Financial Officer  
Docketed by: 4370

IN THE MATTER OF:

Case No.: 09-058-D5-WC

A-1 SUNRISE CONSTRUCTION COMPANY,  
\_\_\_\_\_ /

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 request for administrative hearing received from A-1 SUNRISE CONSTRUCTION COMPANY, the Stop-Work Order and Order of Penalty Assessment, and the Amended Order of Penalty Assessment, and being otherwise fully advised in the premises, hereby finds that:

1. On April 21, 2009, the Department of Financial Services, Division of Workers' Compensation (hereinafter "Department") issued a Stop-Work Order and Order of Penalty Assessment and a Request for Production of Business Records for Penalty Assessment Calculation in Division of Workers' Compensation Case No. 09-058-D5 to A-1 SUNRISE CONSTRUCTION COMPANY. The Stop-Work Order and Order of Penalty Assessment included a Notice of Rights wherein A-1 SUNRISE CONSTRUCTION COMPANY 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, and must conform to Rule 28-106.2015, Florida Administrative Code.

2. On April 22, 2009, the Stop-Work Order and Order of Penalty Assessment and the Request for Production of Business Records for Penalty Assessment Calculation were served by personal service on A-1 SUNRISE CONSTRUCTION COMPANY. 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 July 29, 2009, the Department issued an Amended Order of Penalty Assessment to A-1 SUNRISE CONSTRUCTION COMPANY. The Amended Order of Penalty Assessment assessed a total penalty of \$103,215.64 against A-1 SUNRISE CONSTRUCTION COMPANY. The Amended Order of Penalty Assessment included a Notice of Rights wherein A-1 SUNRISE CONSTRUCTION COMPANY 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, and must conform to Rule 28-106.2015, Florida Administrative Code.

4. On October 2, 2009, the Amended Order of Penalty Assessment was served by Process Server on A-1 SUNRISE CONSTRUCTION COMPANY. A copy of the Amended Order of Penalty Assessment is attached hereto as "Exhibit B" and incorporated herein by reference.

5. On October 23, 2009, A-1 SUNRISE CONSTRUCTION COMPANY filed a petition for administrative review with the Department. The petition for administrative review was forwarded to the Division of Administrative Hearings on December 11, 2009, and the matter

was assigned DOAH Case No. 09-6726. A copy of the petition is attached hereto as "Exhibit C" and incorporated herein by reference.

6. On May 21, 2010, Counsel for A-1 SUNRISE CONSTRUCTION COMPANY filed a Motion to Withdraw with the Division of Administrative Hearings.

7. On May 24, 2010, the Administrative Law Judge issued an Order Granting Leave To Withdraw and Requiring Respondent to File Written Statement, which granted counsel for A-1 SUNRISE CONSTRUCTION COMPANY leave to withdraw as counsel and required A-1 SUNRISE CONSTRUCTION COMPANY to inform the court by June 4, 2010, if it wished to proceed with the section 120.57(1), Florida Statutes, hearing.

8. A-1 SUNRISE CONSTRUCTION COMPANY failed to file a written statement with the Department of Administrative Hearing on or before June 4, 2010. On June 9, 2010, the Administrative Law Judge issued an Order Closing File and relinquishing jurisdiction 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

9. The factual allegations contained in the Stop-Work Order and Order of Penalty Assessment issued on April 21, 2009, and the Amended Order of Penalty Assessment issued on July 29, 2009, attached as "Exhibit A" and "Exhibit B", respectively, and fully incorporated herein by reference, are hereby adopted as the Department's Findings of Fact in this case.

CONCLUSIONS OF LAW

10. Based upon the Findings of Fact adopted herein, the Department concludes that A-1 SUNRISE CONSTRUCTION COMPANY 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

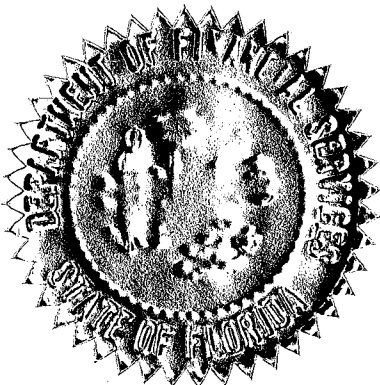
11. The Order Closing File from the Department of Administrative Hearings, the Stop-Work Order and Order of Penalty Assessment, and the Amended Order of Penalty Assessment, taken together with the Findings of Fact and Conclusions of Law adopted herein, constitute grounds for the Chief Financial Officer to impose the penalty as set forth herein.

IT IS THEREFORE ORDERED that:

a. A-1 SUNRISE CONSTRUCTION COMPANY shall immediately pay the total penalty of \$103,215.64 in full to the Department of Financial Services for deposit into the Workers' Compensation Administration Trust Fund;

b. A-1 SUNRISE CONSTRUCTION COMPANY 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 A-1 SUNRISE CONSTRUCTION COMPANY has come into compliance with the coverage requirements of Chapter 440, Florida Statutes and has paid a total penalty of \$103,215.64 to the Department.

DONE and ORDERED this 26<sup>th</sup> day of July, 2010.



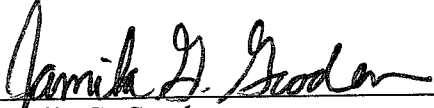
  
BRIAN LONDON  
DEPUTY CHIEF FINANCIAL OFFICER

## 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.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U.S. Mail to the person(s) listed below, on this 26<sup>th</sup> day of July, 2010.

  
\_\_\_\_\_  
Jamila G. Gooden  
Florida Bar No. 46740  
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Department of Financial Services  
Division of Legal Services  
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850 413-1606  
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Homestead, FL 33034