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Chief Financial Officer
Docketed by: LAB

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DIVISION OF
ADMINISTRATIVE
HEARINGS



REPRESENTING
ALEX SINK
CHIEF FINANCIAL OFFICER
STATE OF FLORIDA

IN THE MATTER OF:

Case No.: 09-273-D4-WC

MARVAL MASONRY CORP.

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 MARVAL MASONRY CORP., the Stop-Work Order and Order of Penalty Assessment, the Amended Stop-Work Order, the Amended Order of Penalty Assessment, the 2nd Amended Order of Penalty Assessment, and the 3rd Amended Order of Penalty Assessment, and being otherwise fully advised in the premises, hereby finds that:

1. On September 16, 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. 09-273-D4 to MARVAL MASONRY CORP. The Stop-Work Order and Order of Penalty Assessment included a Notice of Rights wherein MARVAL MASONRY CORP. 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 September 16, 2009, the Stop-Work Order and Order of Penalty Assessment was personally served on MARVAL MASONRY CORP. 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 September 30, 2009, the Department issued an Amended Stop-Work Order to MARVAL MASONRY CORP. The Amended Stop-Work Order included a Notice of Rights wherein MARVAL MASONRY CORP. 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, and must conform to Rule 28-106.2015, Florida Administrative Code.

4. On September 30, 2009, the Amended Stop-Work Order was personally served on MARVAL MASONRY CORP. A copy of the Amended Stop-Work Order is attached hereto as "Exhibit B" and incorporated herein by reference.

5. On September 30, 2009, the Department issued an Amended Order of Penalty Assessment to MARVAL MASONRY CORP. The Amended Order of Penalty Assessment assessed a total penalty of \$853,815.56 against MARVAL MASONRY CORP. The Amended Order of Penalty Assessment included a Notice of Rights wherein MARVAL MASONRY CORP. 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.

6. On September 30, 2009, the Amended Order of Penalty Assessment was personally served on MARVAL MASONRY CORP. A copy of the Amended Order of Penalty Assessment is attached hereto as "Exhibit C" and incorporated herein by reference.

7. On September 30, 2009, the Department issued a 2nd Amended Order of Penalty Assessment to MARVAL MASONRY CORP. The 2nd Amended Order of Penalty Assessment assessed a total penalty of \$853,815.56 against MARVAL MASONRY CORP. The 2nd Amended Order of Penalty Assessment included a Notice of Rights wherein MARVAL MASONRY CORP. was advised that any request for an administrative proceeding to challenge or contest the 2nd Amended Order of Penalty Assessment must be filed within twenty-one (21) days of receipt of the 2nd 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.

8. On September 30, 2009, the 2nd Amended Order of Penalty Assessment was personally served on MARVAL MASONRY CORP. A copy of the 2nd Amended Order of Penalty Assessment is attached hereto as "Exhibit D" and incorporated herein by reference.

9. On October 21, 2009, MARVAL MASONRY CORP. filed a petition for administrative review ("Petition") with the Department which was forwarded to the Division of Administrative Hearings and assigned DOAH Case No. 09-6729. A copy of the Petition is attached hereto as "Exhibit E".

10. On June 9, 2010, the Department issued a 3rd Amended Order of Penalty Assessment to MARVAL MASONRY CORP. The 3rd Amended Order of Penalty Assessment assessed a total penalty of \$82,848.28 against MARVAL MASONRY CORP.

11. On June 21, 2010, counsel for MARVAL MASONRY CORP. filed a Notice of Voluntary Dismissal of MARVAL MASONRY CORP.'s Petition with the Division of Administrative Hearings. As a result, Administrative Law Judge Linda M. Rigot entered an Order Closing File, relinquishing jurisdiction of this matter to the Department. A copy of the Order Closing File is attached hereto as "Exhibit F".

12. On June 28, 2010, the 3rd Amended Order of Penalty Assessment was served by certified mail on MARVAL MASONRY CORP. The 3rd Amended Order of Penalty Assessment included a Notice of Rights wherein MARVAL MASONRY CORP. was advised that any request for an administrative proceeding to challenge or contest the 3rd Amended Order of Penalty Assessment must be filed within twenty-one (21) days of receipt of the 3rd 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. A copy of the 3rd Amended Order of Penalty Assessment is attached hereto as "Exhibit G" and incorporated herein by reference.

13. On July 26, 2010, the Department and MARVAL MASONRY CORP. entered into a Settlement Agreement wherein MARVAL MASONRY CORP. agreed to pay the Department the penalty assessed in the 3rd Amended Order of Penalty Assessment in the amount of \$82,848.28. A copy of the Settlement Agreement is attached hereto as "Exhibit H".

FINDINGS OF FACT

14. The factual allegations contained in the Stop-Work Order and Order of Penalty Assessment issued on September 16, 2009, the Amended Stop-Work Order issued on September 30, 2009, the Amended Order of Penalty Assessment issued on September 30, 2009, the 2nd Amended Order of Penalty Assessment issued on September 30, 2009, and the 3rd Amended Order of Penalty Assessment issued on June 9, 2010, attached as "Exhibit A", "Exhibit B", "Exhibit C", "Exhibit D", and "Exhibit G", respectively, and fully incorporated herein by reference, are hereby adopted as the Department's Findings of Fact in this case.

CONCLUSIONS OF LAW

15. Based upon the Findings of Fact adopted herein, the Department concludes that MARVAL MASONRY CORP. violated the specific statutes and rules alleged in the Stop-Work Order and Order of Penalty Assessment, the Amended Stop-Work Order, the Amended Order of Penalty Assessment, the 2nd Amended Order of Penalty Assessment, and the 3rd Amended Order of Penalty Assessment, and hereby adopts the violation(s) charged in the Stop-Work Order and Order of Penalty Assessment, the Amended Stop-Work Order, the Amended Order of Penalty Assessment, the 2nd Amended Order of Penalty Assessment, and the 3rd Amended Order of Penalty Assessment as the Conclusions of Law in this case.

PENALTY IMPOSED

16. The Settlement Agreement, the Order Closing File from the Division of Administrative Hearings, the Stop-Work Order and Order of Penalty Assessment, the Amended Stop-Work Order, the Amended Order of Penalty Assessment, the 2nd Amended Order of Penalty Assessment, and the 3rd 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:

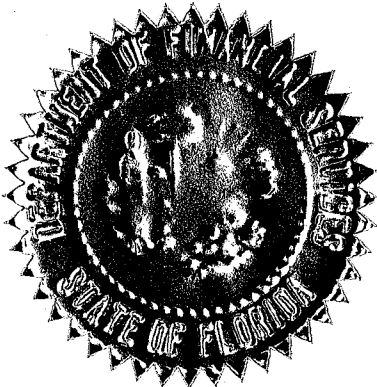
a. MARVAL MASONRY CORP. shall immediately pay the total penalty of \$82,848.28 in full to the Department of Financial Services for deposit into the Workers' Compensation Administration Trust Fund; and

b. MARVAL MASONRY CORP. 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 and the Amended Stop-Work Order. The Department shall not issue an Order releasing the Stop-Work Order and Order of Penalty Assessment and the Amended Stop-Work Order until MARVAL MASONRY CORP. has come into compliance with the coverage requirements of Chapter 440, Florida Statutes and has paid a total penalty of \$82,848.28 to the Department.

DONE and ORDERED this 10th day of September, 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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