

FILED

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DIVISION OF  
ADMINISTRATIVE  
HEARINGS



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

001328

**FILED**

SEP 15 2010

Chief Financial Officer  
Docketed by: CSB

**IN THE MATTER OF:**

**Case No.: 09-507-D3-WC**

**KALT CONSTRUCTION, INC.**  
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**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 KALT CONSTRUCTION, INC., 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 December 15, 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. 09-507-D3 to KALT CONSTRUCTION, INC. The Stop-Work Order and Order of Penalty Assessment included a Notice of Rights wherein KALT CONSTRUCTION, 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, and must conform to Rule 28-106.2015, Florida Administrative Code.

2. On December 15, 2009, the Stop-Work Order and Order of Penalty Assessment was personally served on KALT CONSTRUCTION, 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 December 31, 2009, KALT CONSTRUCTION, INC. filed a petition for administrative review ("Petition") with the Department which was forwarded to the Division of Administrative Hearings and assigned DOAH Case No. 10-0353. A copy of the Petition is attached hereto as "Exhibit B".

4. On January 5, 2010, the Department issued an Amended Stop-Work Order to KALT CONSTRUCTION, INC.

5. On January 9, 2010, the Amended Stop-Work Order was served by certified mail on KALT CONSTRUCTION, INC. A copy of the Amended Stop-Work Order is attached hereto as "Exhibit C" and incorporated herein by reference.

6. On January 8, 2010, the Department issued an Amended Order of Penalty Assessment to KALT CONSTRUCTION, INC. The Amended Order of Penalty Assessment assessed a total penalty of \$173,448.64 against KALT CONSTRUCTION, INC.

7. On January 25, 2010, the Amended Order of Penalty Assessment was filed with the Division of Administrative Hearings. A copy of the Amended Order of Penalty Assessment is attached hereto as "Exhibit D" and incorporated herein by reference.

8. On March 11, 2010, the Department issued a 2nd Amended Order of Penalty Assessment to KALT CONSTRUCTION, INC. The 2nd Amended Order of Penalty Assessment assessed a total penalty of \$70,939.06 against KALT CONSTRUCTION, INC.

9. On March 18, 2010, the 2nd Amended Order of Penalty Assessment was filed with the Division of Administrative Hearings. A copy of the 2nd Amended Order of Penalty Assessment is attached hereto as "Exhibit E" and incorporated herein by reference.

10. On March 31, 2010, the Department issued a 3rd Amended Order of Penalty Assessment to KALT CONSTRUCTION, INC. The 3rd Amended Order of Penalty Assessment assessed a total penalty of \$66,864.41 against KALT CONSTRUCTION, INC.

11. On April 5, 2010, the 3rd Amended Order of Penalty Assessment was filed with the Division of Administrative Hearings. A copy of the 3rd Amended Order of Penalty Assessment is attached hereto as "Exhibit F" and incorporated herein by reference.

12. On April 12, 2010, counsel for KALT CONSTRUCTION, INC. filed a Voluntary Dismissal of KALT CONSTRUCTION, INC.'s Petition with the Division of Administrative Hearings. As a result, Administrative Law Judge Carolyn S. Holifield 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 G".

#### FINDINGS OF FACT

13. The factual allegations contained in the Stop-Work Order and Order of Penalty Assessment issued on December 15, 2009, the Amended Stop-Work Order issued on January 5, 2010, the Amended Order of Penalty Assessment issued on January 8, 2010, the 2nd Amended Order of Penalty Assessment issued on March 11, 2010, and the 3rd Amended Order of Penalty Assessment issued on March 31, 2010, attached as "Exhibit A", "Exhibit C", "Exhibit D",

“Exhibit E”, and “Exhibit F”, respectively, and fully incorporated herein by reference, are hereby adopted as the Department’s Findings of Fact in this case.

CONCLUSIONS OF LAW

14. Based upon the Findings of Fact adopted herein, the Department concludes that KALT CONSTRUCTION, INC. 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

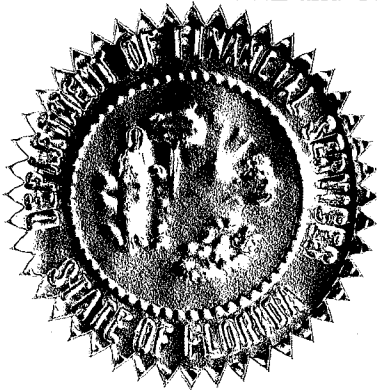
15. The Order Closing File from the Division of Administrative Hearings, the Stop-Work Order and Order of Penalty Assessment, the Amended Stop-Work Order, the Amended Order of Penalty Assessment, the 2nd Amended Order of Penalty Assessment, and the 3rd Amended Order of Penalty Assessment, taken together 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. KALT CONSTRUCTION, INC. shall immediately pay the total penalty of \$66,864.41 in full to the Department of Financial Services for deposit into the Workers' Compensation Administration Trust Fund; and

b. KALT CONSTRUCTION, 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 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 KALT CONSTRUCTION, INC. has come into compliance with the coverage requirements of Chapter 440, Florida Statutes and has paid a total penalty of \$66,864.41 to the Department.

DONE and ORDERED this 15<sup>th</sup> day of September, 2010.



A handwritten signature in black ink, appearing to read "Brian London".

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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