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Chief Financial Officer
Docketed by:

CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

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DIVISION OF
ADMINISTRATIVE
HEARINGS

10-6264

IN THE MATTER OF:

Case No.: 10-196-1A-WC

BGB CONSTRUCTION SERVICES, INC.,
_____ /

FINAL ORDER

THIS PROCEEDING came on for final agency action and Jeff Atwater, Chief Financial Officer of the State of Florida, or his designee, having considered the record in this case, including the request for administrative hearing received from BGB CONSTRUCTION SERVICES, INC., the Stop-Work Order and Order of Penalty Assessment, the Amended Order of Penalty Assessment, and the 2nd Amended Order of Penalty Assessment, and being otherwise fully advised in the premises, hereby finds that:

1. On May 11, 2010, 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. 10-196-1A to BGB CONSTRUCTION SERVICES, INC. The Stop-Work Order and Order of Penalty Assessment included a Notice of Rights wherein BGB CONSTRUCTION SERVICES, 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 May 11, 2010, the Stop-Work Order and Order of Penalty Assessment was served by personal service on BGB CONSTRUCTION SERVICES, 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 May 25, 2010, the Department issued an Amended Order of Penalty Assessment to BGB CONSTRUCTION SERVICES, INC. The Amended Order of Penalty Assessment assessed a total penalty of \$25,536.50 against BGB CONSTRUCTION SERVICES, INC. The Amended Order of Penalty Assessment included a Notice of Rights wherein BGB CONSTRUCTION SERVICES, 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, and must conform to Rule 28-106.2015, Florida Administrative Code.

4. On May 29, 2010, the Amended Order of Penalty Assessment was served by certified mail on BGB CONSTRUCTION SERVICES, INC. A copy of the Amended Order of Penalty Assessment is attached hereto as "Exhibit B" and incorporated herein by reference.

5. On June 18, 2010, BGB CONSTRUCTION SERVICES, INC. filed a petition for administrative review with the Department. The petition for administrative review was forwarded to the Division of Administrative Hearings on July 27, 2010, and the matter was assigned DOAH Case No. 10-6264. A copy of the petition is attached hereto as "Exhibit C" and incorporated herein by reference.

6. On November 17, 2010, the Department issued a 2nd Amended Order of Penalty Assessment to BGB CONSTRUCTION SERVICES, INC. The 2nd Amended Order of Penalty

Assessment assessed a total penalty of \$1,000.00 against BGB CONSTRUCTION SERVICES, INC.

7. On November 23, 2010, the 2nd Amended Order of Penalty Assessment was served on BGB CONSTRUCTION SERVICES, INC. A copy of the 2nd Amended Order of Penalty Assessment is attached hereto as "Exhibit D" and incorporated herein by reference.

8. On December 30, 2010, BGB CONSTRUCTION SERVICES, INC., through legal counsel, filed a voluntary dismissal of its request for administrative hearing with the Division of Administrative Hearings. A copy of the voluntary dismissal is attached hereto as "Exhibit E" and incorporated herein by reference.

9. On December 30, 2010, the Department filed a Status Report and Motion to Relinquish Jurisdiction with the Division of Administrative Hearings.

10. On January 5, 2011, the Administrative Law Judge issued an Order Closing File which relinquished jurisdiction to the Department of Financial Services. A copy of the Order Closing File is attached hereto as "Exhibit F" and incorporated herein by reference.

FINDINGS OF FACT

11. The factual allegations contained in the Stop-Work Order and Order of Penalty Assessment issued on May 11, 2010, the Amended Order of Penalty Assessment issued on May 25, 2010, and the 2nd Amended Order of Penalty Assessment issued on November 17, 2010, attached as "Exhibit A," "Exhibit B," and "Exhibit D," respectively, and fully incorporated herein by reference, are hereby adopted as the Department's Findings of Fact in this case.

CONCLUSIONS OF LAW

12. The Department has jurisdiction over the subject matter of and the parties to this matter pursuant to Chapter 440, Florida Statutes.

13. Based upon the Findings of Fact adopted herein, the Department concludes that BGB CONSTRUCTION SERVICES, INC. violated the specific statutes and rules alleged in the Stop-Work Order and Order of Penalty Assessment, the Amended Order of Penalty Assessment, and the 2nd Amended Order of Penalty Assessment and hereby adopts the violation(s) charged in the Stop-Work Order and Order of Penalty Assessment, the Amended Order of Penalty Assessment, and the 2nd Amended Order of Penalty Assessment as the Conclusions of Law in this case.

PENALTY IMPOSED

14. The Order Closing File from the Division of Administrative Hearings, the Stop-Work Order and Order of Penalty Assessment, the Amended Order of Penalty Assessment, and the 2nd 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.

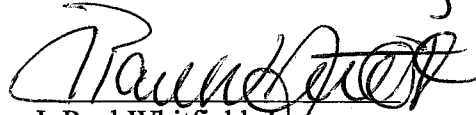
IT IS THEREFORE ORDERED that:

a. BGB CONSTRUCTION SERVICES, INC. shall immediately pay the total penalty of \$1,000.00 in full to the Department of Financial Services for deposit into the Workers' Compensation Administration Trust Fund; and

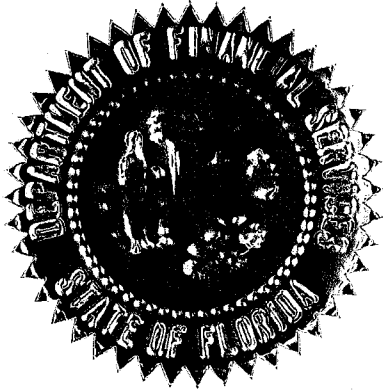
b. BGB CONSTRUCTION SERVICES, INC. shall immediately cease all business operations in the State of Florida until such time as the Department issues an order releasing the Stop-Work Order and Order of Penalty Assessment. The Department shall not issue an Order

releasing the Stop-Work Order and Order of Penalty Assessment until BGB CONSTRUCTION SERVICES, INC. come into compliance with the coverage requirements of Chapter 440, Florida Statutes and has paid a total penalty of \$1,000.00 to the Department.

DONE and ORDERED this 23rd day of February, 2011.



J. Paul Whitfield, Jr.
Deputy Chief Financial Officer
Department of Financial Services

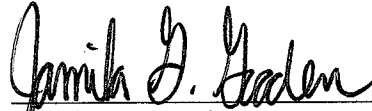


NOTICE OF RIGHTS

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 23rd day of February, 2011.



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