

FILED

DEC 13 2010

Chief Financial Officer
Docketed by: YAB



REPRESENTING
ALEX SINK
CHIEF FINANCIAL OFFICER
STATE OF FLORIDA

002631

FILED
2010 DEC 14 P 1:13
DIVISION OF
ADMINISTRATIVE
HEARINGS

10-7165

IN THE MATTER OF:

Case No.: 10-169-D3-WC

TOM HINDS, INC.
_____ /

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 TOM HINDS, INC., the Stop-Work Order and Order of Penalty Assessment, 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 April 7, 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. 10-169-D3 to TOM HINDS, INC. The Stop-Work Order and Order of Penalty Assessment included a Notice of Rights wherein TOM HINDS, 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 April 7, 2010, the Stop-Work Order and Order of Penalty Assessment was personally served on TOM HINDS, 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 April 19, 2010, the Department issued an Amended Order of Penalty Assessment to TOM HINDS, INC. The Amended Order of Penalty Assessment assessed a total penalty of \$47,827.66 against TOM HINDS, INC. The Amended Order of Penalty Assessment included a Notice of Rights wherein TOM HINDS, 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 August 5, 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 B" and incorporated herein by reference.

5. On May 18, 2010, the Department received a request for administrative hearing ("Petition") from TOM HINDS, INC. A copy of the Petition is attached hereto as "Exhibit C".

6. On June 2, 2010, the Department issued a 2nd Amended Order of Penalty Assessment to TOM HINDS, INC. The 2nd Amended Order of Penalty Assessment reduced the penalty assessed against TOM HINDS, INC. to \$5,744.16.

7. On June 19, 2010, the 2nd Amended Order of Penalty Assessment was served by certified mail to TOM HINDS, INC. A copy of the 2nd Amended Order of Penalty Assessment is attached hereto as "Exhibit D" and incorporated herein by reference.

8. On August 5, 2010, the Petition from TOM HINDS, INC. was forwarded to the Division of Administrative Hearings and assigned DOAH Case No. 10-7165.

9. On September 1, 2010, the Department issued a 3rd Amended Order of Penalty Assessment to TOM HINDS, INC. The 3rd Amended Order of Penalty Assessment reduced the penalty assess against TOM HINDS, INC. to \$5,733.10.

10. On September 3, 2010, the Department filed with the Division of Administrative Hearings a Motion to Amend Order of Penalty Assessment. A copy of the 3rd Amended Order of Penalty Assessment is attached hereto as "Exhibit E" and incorporated herein by reference.

11. On October 24, 2010, TOM HINDS, INC. informed the Department that TOM HINDS, INC. did not wish to proceed to an administrative hearing in DOAH Case No. 10-7165.

12. On October 27, 2010, the Department filed a Joint Motion to Relinquish Jurisdiction with the Division of Administrative Hearings. As a result, on November 18, 2010, Administrative Law Judge, R. Bruce McKibben, 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".

FINDINGS OF FACT

13. The factual allegations contained in the Stop-Work Order and Order of Penalty Assessment issued on April 7, 2010, the Amended Order of Penalty Assessment issued on April 19, 2010, the 2nd Amended Order of Penalty Assessment issued on June 2, 2010, and the 3rd Amended Order of Penalty Assessment issued on September 1, 2010, attached as "Exhibit A",

“Exhibit B”, “Exhibit D”, and “Exhibit E”, 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 TOM HINDS, INC. violated the specific statutes and rules alleged in the Stop-Work Order and Order of Penalty Assessment, 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 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 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.

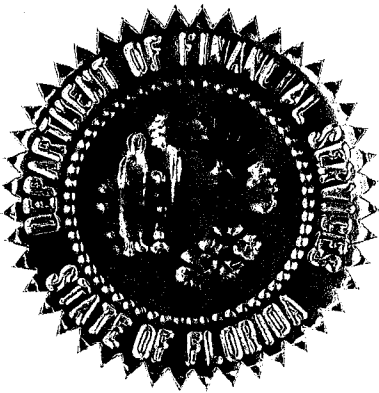
IT IS THEREFORE ORDERED that:

- a. TOM HINDS, INC. shall immediately pay the total penalty of \$5,733.10 in full to the Department of Financial Services for deposit into the Workers' Compensation Administration Trust Fund; and
- b. TOM HINDS, 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 TOM HINDS, INC. come into compliance with the coverage requirements of Chapter 440, Florida Statutes and has paid a total penalty of \$5,733.10 to the Department.

DONE and ORDERED this 13th day of December, 2010.


TANNER HOLLOMAN, DIRECTOR
DIVISION OF WORKERS' COMPENSATION

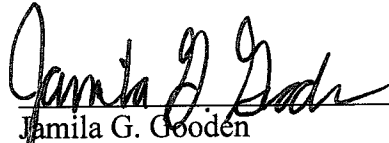


NOTICE OF RIGHTS

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 13th day of December, 2010.



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COPIES FURNISHED TO:

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