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Chief Financial Officer
Docketed by: BAB



REPRESENTING
ALEX SINK
CHIEF FINANCIAL OFFICER
STATE OF FLORIDA

FILED

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DIVISION OF
ADMINISTRATIVE
HEARINGS

10-7312

Case No.: 04-590-D1-WC

IN THE MATTER OF:

BILL VECZKO, D/B/A BILL'S PAINTING

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 Bill Veczko, d/b/a Bill's Painting, the Stop-Work Order and Order of Penalty Assessment, the Amended Order of Penalty Assessment, the second 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 29, 2004, 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. 04-590-D1 to Bill Veczko, d/b/a Bill's Painting. The Stop-Work Order and Order of Penalty Assessment included a Notice of Rights wherein Bill Veczko, d/b/a Bill's Painting 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 29, 2004, the Stop-Work Order and Order of Penalty Assessment was personally served on Bill Veczko, d/b/a Bill's Painting. 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 October 14, 2004, the Department issued an Amended Order of Penalty Assessment to Bill Veczko, d/b/a Bill's Painting. The Amended Order of Penalty Assessment assessed a total penalty of \$30,844.10 against Bill Veczko, d/b/a Bill's Painting. The Amended Order of Penalty Assessment included a Notice of Rights wherein Bill Veczko, d/b/a Bill's Painting 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 27, 2010, the Amended Order of Penalty Assessment was personally served on Bill Veczko, d/b/a Bill's Painting. A copy of the Amended Order of Penalty Assessment is attached hereto as "Exhibit B" and incorporated herein by reference.

5. On January 20, 2005, the Department issued a second Amended Order of Penalty Assessment to Bill Veczko, d/b/a Bill's Painting. The second Amended Order of Penalty Assessment assessed a total penalty of \$104,044.10 against Bill Veczko, d/b/a Bill's Painting. The second Amended Order of Penalty Assessment included a Notice of Rights wherein Bill Veczko, d/b/a Bill's Painting was advised that any request for an administrative proceeding to challenge or contest the second Amended Order of Penalty Assessment must be filed within

twenty-one (21) days of receipt of the second 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 May 27, 2010, the second Amended Order of Penalty Assessment was personally served on Bill Veczko, d/b/a Bill's Painting. A copy of the second Amended Order of Penalty Assessment is attached hereto as "Exhibit C" and incorporated herein by reference.

7. On June 8, 2010, Bill Veczko, d/b/a Bill's Painting filed a petition for administrative review ("Petition") with the Department. Pursuant to Sections 120.54(5)(b) and 120.569(2), Florida Statutes, the Department carefully reviewed the Petition to determine if it was in substantial compliance with Rule 28-106.2015, Florida Administrative Code. A copy of the Petition is attached hereto as "Exhibit D".

8. After reviewing the Petition, the Department determined that the Petition was not in substantial compliance with the requirements of 28-106.2015, Florida Administrative Code, in that the Petition did not contain a statement identifying the material facts in dispute, or a statement indicating that there were no material facts in dispute. Accordingly, on June 24, 2010, the Department issued an Order Dismissing Petition for Section 120.57(1), Florida Statutes, Proceeding Without Prejudice. In the Order Dismissing Petition for Section 120.57(1), Florida Statutes, Proceeding Without Prejudice, Bill Veczko, d/b/a Bill's Painting was given an opportunity to file, within 21 days, an amended petition curing the defects in the original Petition.

9. On August 9, 2010, Bill Veczko, d/b/a Bill's Painting filed an amended petition for administrative review ("Amended Petition") with the Department, which was forwarded to

the Division of Administrative Hearings and assigned DOAH Case No. 10-7312. A copy of the Amended Petition is attached hereto as "Exhibit E".

10. On August 25, 2010, the Department filed with the Division of Administrative Hearings a Motion to Amend Order of Penalty Assessment with an attached 3rd Amended Order of Penalty Assessment. The 3rd Amended Order of Penalty Assessment assessed a total penalty of \$103,958.56 against Bill Veczko, d/b/a Bill's Painting. A copy of the 3rd Amended Order of Penalty Assessment is attached hereto as "Exhibit F" and incorporated herein by reference.

11. On August 25, 2010, Administrative Law Judge W. D. Watkins entered an Order Granting Motion to Amend Order of Penalty Assessment.

12. On October 12, 2010, Bill Veczko informed the Department that Bill Veczko, d/b/a Bill's Painting did not wish to proceed to an administrative hearing in DOAH Case No. 10-7312.

13. On October 12, 2010, the Department filed a Joint Motion to Relinquish Jurisdiction with the Division of Administrative Hearings. As a result, Administrative Law Judge W. D. Watkins entered an Order Relinquishing Jurisdiction and Closing File. A copy of the Order Relinquishing Jurisdiction and Closing File is attached hereto as "Exhibit G".

FINDINGS OF FACT

14. The factual allegations contained in the Stop-Work Order and Order of Penalty Assessment issued on September 29, 2004, the Amended Order of Penalty Assessment issued on October 14, 2004, the second Amended Order of Penalty Assessment issued on January 20, 2005, and the 3rd Amended Order of Penalty Assessment issued on August 25, 2010, attached as "Exhibit A", "Exhibit B", "Exhibit C", 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

15. Based upon the Findings of Fact adopted herein, the Department concludes that Bill Veczko, d/b/a Bill's Painting violated the specific statutes and rules alleged in the Stop-Work Order and Order of Penalty Assessment, the Amended Order of Penalty Assessment, the second 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 second Amended Order of Penalty Assessment, and the 3rd Amended Order of Penalty Assessment as the Conclusions of Law in this case.

PENALTY IMPOSED

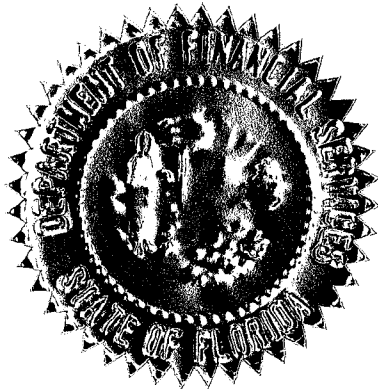
16. The Order Relinquishing Jurisdiction and Closing File from the Division of Administrative Hearings, the Stop-Work Order and Order of Penalty Assessment, the Amended Order of Penalty Assessment, the second Amended Order of Penalty Assessment, and the 3rd Amended Order of Penalty Assessment, taken 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. Bill Veczko, d/b/a Bill's Painting shall immediately pay the total penalty of \$103,958.56 in full to the Department of Financial Services for deposit into the Workers' Compensation Administration Trust Fund; and
- b. Bill Veczko, d/b/a Bill's Painting 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 Bill Veczko, d/b/a Bill's Painting has come into compliance with the coverage requirements of Chapter 440, Florida Statutes, and has paid a total penalty of \$103,958.56 to the Department.

DONE and ORDERED this 2nd day of November, 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.

COPIES FURNISHED TO:

BILL VECZKO
BILL'S PAINTING & MORE, LLC
1259 NOCHAWAY DRIVE
ST. AUGUSTINE, FLORIDA 32092

ALLEN DIMARIA
DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF WORKERS' COMPENSATION
BUREAU OF COMPLIANCE
921 NORTH DAVIS STREET
JACKSONVILLE, FLORIDA 32209

HOLLY WERKEMA
DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF LEGAL SERVICES
200 EAST GAINES STREET
TALLAHASSEE, FLORIDA 32399-4229