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Chief Financial Officer
Docketed by: ASB

CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

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DIVISION OF
ADMINISTRATIVE
HEARINGS

Case No.: 10-458-1A-WC

IN THE MATTER OF:

**BRANDON MEZZARO, MIKE BODREE,
PETE PARKER, D/B/A WORLD ASPHALT**

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 Brandon Mezzaro, Mike Bodree, Pete Parker, d/b/a World Asphalt (hereinafter "World Asphalt"), 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 November 9, 2010, the Department of Financial Services, Division of Workers' Compensation (hereinafter "Department") issued a Stop-Work Order and Order of Penalty Assessment to World Asphalt in Case No. 10-458-1A. The Stop-Work Order and Order of Penalty Assessment included a Notice of Rights wherein World Asphalt 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 November 9, 2010, the Stop-Work Order and Order of Penalty Assessment was personally served on World Asphalt. 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 November 18, 2010, World Asphalt filed with the Department a request for an administrative hearing ("Petition") pursuant to section 120.57(1), Florida Statutes, challenging the Stop-Work Order and Order of Penalty Assessment. The Petition was forwarded to the Division of Administrative Hearings and assigned DOAH Case No. 10-10929. A copy of the Petition is attached hereto as "Exhibit B".

4. On December 2, 2010, the Department issued an Amended Order of Penalty Assessment to World Asphalt. The Amended Order of Penalty Assessment assessed a total penalty of \$70,088.22 against World Asphalt.

5. On December 6, 2010, the Amended Order of Penalty Assessment was served on World Asphalt by certified mail. A copy of the Amended Order of Penalty Assessment is attached hereto as "Exhibit C" and incorporated herein by reference.

6. On March 10, 2011, the Department issued a 2nd Amended Order of Penalty Assessment to World Asphalt. The 2nd Amended Order of Penalty Assessment assessed a total penalty of \$1,000.00 against World Asphalt.

7. On March 10, 2011, 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 D" and incorporated herein by reference.

8. On March 15, 2011, the Department and World Asphalt filed a Notice of Settlement with the Division of Administrative Hearings. On March 17, 2011, Administrative

Law Judge W. David Watkins entered an Order Closing File, which relinquished jurisdiction of the matter to the Department.

FINDINGS OF FACT

9. The factual allegations contained in the Stop-Work Order and Order of Penalty Assessment, the Amended Order of Penalty Assessment, and the 2nd Amended Order of Penalty Assessment, attached hereto as "Exhibit A", "Exhibit C", 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

10. Based upon the Findings of Fact adopted herein, the Department concludes that World Asphalt 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

11. 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. World Asphalt 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. World Asphalt 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 World Asphalt has 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 6th day of June, 2011.



A handwritten signature in black ink, appearing to read "E. Tanner Holloman". The signature is written in a cursive style and is positioned above the printed name and title.

E. 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:

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