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Chief Financial Officer
Docketed by: BAS

CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

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DIVISION OF
ADMINISTRATIVE
HEARINGS

IN THE MATTER OF:

Case No.: 09-186-D2-WC

SONNY SAMMY

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 SONNY SAMMY, 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 September 16, 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. 09-186-D2 to SONNY SAMMY. The Stop-Work Order and Order of Penalty Assessment included a Notice of Rights wherein SONNY SAMMY 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 16, 2009, the Stop-Work Order and Order of Penalty Assessment was served by personal service on SONNY SAMMY. 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 13, 2009, the Department issued an Amended Order of Penalty Assessment to SONNY SAMMY. The Amended Order of Penalty Assessment assessed a total penalty of \$71,862.00 against SONNY SAMMY. The Amended Order of Penalty Assessment included a Notice of Rights wherein SONNY SAMMY 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 October 23, 2009, the Amended Order of Penalty Assessment was served by personal service on SONNY SAMMY. A copy of the Amended Order of Penalty Assessment is attached hereto as "Exhibit B" and incorporated herein by reference.

5. On December 21, 2009, the Department issued a 2nd Amended Order of Penalty Assessment to SONNY SAMMY. The 2nd Amended Order of Penalty Assessment was issued in order to make a correction to the Federal Employer Identification Number (FEIN). The 2nd Amended Order of Penalty Assessment included a Notice of Rights wherein SONNY SAMMY was advised that any request for an administrative proceeding to challenge or contest the 2nd Amended Order of Penalty Assessment must be filed within twenty-one (21) days of receipt of the 2nd 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 December 22, 2009, the 2nd Amended Order of Penalty Assessment was served by personal service on SONNY SAMMY. A copy of the 2nd Amended Order of Penalty Assessment is attached hereto as "Exhibit C" and incorporated herein by reference.

7. On December 21, 2009, SONNY SAMMY timely filed a request for administrative hearing ("Petition") with the Department. The Petition was forwarded to the Division of Administrative Hearings on March 17, 2011, and the matter was assigned DOAH Case No. 11-2470. A copy of the petition is attached hereto as "Exhibit D" and incorporated herein by reference.

8. On May 24, 2011, the Department served by overnight courier its First Interlocking Discovery Request ("discovery requests") which included requests for admissions, interrogatories, and requests for production on Respondent. Respondent was required to serve its answers upon the Department within 30 days pursuant to Rules 1.340(a), 1.350(b), and 1.370(a), Florida Rules of Civil Procedure. However, pursuant to Rule 128-106.103, Florida Administrative Code, "One business day shall be added when service is made by overnight courier." Therefore, Respondent was required to respond to the discovery on or before June 24, 2011.

9. On June 27, 2011, the Department filed a Motion to Deem Matters Admitted and to Relinquish Jurisdiction Pursuant to Section 120.57(1), Florida Statutes after having not received any answer from Respondent to the Department's discovery requests. On July 20, 2011, the Administrative Law Judge entered an Order denying the motion without prejudice stating that the "requisite record for granting the requested relief has not been established" due to the Department's failure to attach or separately file the Requests for Admission served on Respondent.

10. On July 20, 2011, the Department filed its Notice of Filing Requests for Admission and included all requests for admission that were propounded on Respondent on May 24, 2011.

11. On August 11, 2011, the Administrative Law Judge issued an Order Deeming Matters Admitted and Relinquishing Jurisdiction which relinquished jurisdiction of the matter to the Department for final disposition. A copy of the Order Deeming Matters Admitting and Relinquishing Jurisdiction is attached hereto as "Exhibit E" and incorporated herein by reference.

FINDINGS OF FACT

12. The factual allegations contained in the Stop-Work Order and Order of Penalty Assessment issued on September 16, 2009, the Amended Order of Penalty Assessment issued on October 13, 2009, and the 2nd Amended Order of Penalty Assessment issued on December 21, 2009, attached as "Exhibit A," "Exhibit B," and "Exhibit C" respectively, and fully incorporated herein by reference, are hereby adopted as the Department's Findings of Fact in this case.

CONCLUSIONS OF LAW

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

14. Based upon the Findings of Fact adopted herein, the Department concludes that SONNY SAMMY 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

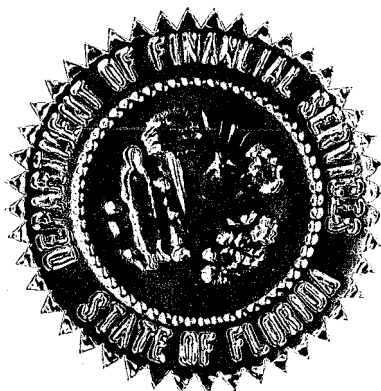
15. The Order Deeming Matters Admitted and Relinquishing Jurisdiction from the Division of Administrative Hearings, the Stop-Work Order and Order of Penalty Assessment, the Amended Order of Penalty Assessment, and the 2nd Amended Order of Penalty Assessment taken together with the Findings of Fact and 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. SONNY SAMMY shall immediately pay the total penalty of \$71,862.00 in full to the Department of Financial Services for deposit into the Workers' Compensation Administration Trust Fund;

b. SONNY SAMMY 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 SONNY SAMMY has come into compliance with the coverage requirements of Chapter 440, Florida Statutes and has paid a total penalty of \$71,862.00 to the Department.

DONE AND ORDERED on this 12th day of September, 2011.



A handwritten signature in black ink, appearing to read "E. Fanner Holloman". The signature is written in a cursive style and is positioned above a horizontal line.

E. Fanner Holloman
Director, Workers' Compensation

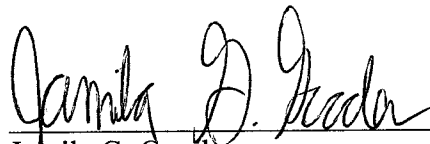
NOTICE OF RIGHTS

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 12th day of September, 2011.



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