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Chief Financial Officer
Docketed by: BAV

CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

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DIVISION OF
ADMINISTRATIVE
HEARINGS

IN THE MATTER OF:
FARTHING MOTOR SPORTS, d/b/a
STAR DRYWALL, INC.

Case Number: 09-190-D3-WC

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 Stop-Work Order and Order of Penalty Assessment and the 4th Amended Order of Penalty Assessment served in Division of Workers' Compensation Case No. 09-190-D3, and being otherwise fully advised in the premises, hereby finds that:

1. On July 14, 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. 09-190-D3 to Farthing Motor Sports, d/b/a Star Drywall, Inc. (Farthing). The Stop-Work Order and Order of Penalty Assessment included a Notice of rights wherein Farthing 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.
2. On July 16, 2009, the Stop-Work Order and Order of Penalty Assessment was served on Farthing via certified mail. 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 July 27, 2009, Farthing timely filed a Petition for formal administrative hearing pursuant to Section 120.57(1), Florida Statutes. The Petition was subsequently forwarded to the Division of Administrative Hearings on May 18, 2011 and was assigned Case No. 11-2561.

4. On September 18, 2009, the Department issued an Amended Order of Penalty Assessment to Farthing in Case No. 09-190-D3. The Amended Order of Penalty Assessment assessed a total penalty of \$228,409.49 against Farthing. The Amended Order of Penalty Assessment included a Notice of Rights wherein Farthing 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.

5. The Amended Order of Penalty Assessment was served on Farthing by personal service on September 22, 2009. A copy of the Amended Order of Penalty Assessment is attached hereto as "Exhibit B" and incorporated herein by reference.

6. The Department subsequently issued a 2nd Amended Order of Penalty Assessment and a 3rd Amended Order of Penalty Assessment to Farthing. On January 26, 2010, the Department issued a 4th Amended Order of Penalty Assessment to Farthing in Case No. 09-190-D3 which lowered the assessed penalty to \$82,807.83.

7. The 4th Amended Order of Penalty Assessment was served on Farthing through its counsel on March 17, 2010. A copy of the 4th Amended Order of Penalty Assessment is attached hereto as "Exhibit C" and incorporated herein by reference.

8. On June 13, 2011, the Department served its First Interlocking Discovery Requests on Farthing in DOAH Case No. 11-2561. Farthing's Responses to the Department's First Interlocking Discovery Requests were due on or before July 13, 2011.

9. On July 15, 2011, the Department filed its Motion to Compel Responses to First Interlocking Discovery Requests. On July 15, 2011, Administrative Law Judge Claude B. Arrington entered an Order Granting Motion to Compel, directing Farthing to respond to the Department's First Interlocking Discovery Requests within 10 days. A copy of the Order Granting Motion to Compel is attached hereto as "Exhibit D."

10. On July 27, 2011, the Department filed a Motion to Deem Matters Admitted and to Relinquish Jurisdiction Pursuant to Section 120.57(1), Florida Statutes, based upon Farthing's failure to respond to the Department's First Interlocking Discovery Responses. On August 10, 2011, Administrative Law Judge Arrington entered an Order Closing File, relinquishing jurisdiction to the Department. A copy of the Order Closing File is attached hereto as "Exhibit E."

FINDINGS OF FACT

11. The factual allegations in the Stop-Work Order and Order of Penalty Assessment issued on July 14, 2009, and the 4th Amended Order of Penalty Assessment issued on January 26, 2010, which are fully incorporated herein by reference, are hereby adopted as the Department's Findings of Fact in this case.

CONCLUSIONS OF LAW

12. Based on the Findings of Fact adopted herein, the Department concludes that Farthing violated the specific statutes and rules alleged in the Stop-Work Order and Order of Penalty Assessment and the 4th Amended Order of Penalty Assessment, and hereby adopts the violations charged in the Stop-Work Order and Order of Penalty Assessment and the 4th Amended Order of Penalty Assessment as the Conclusions of Law in this case.

PENALTY IMPOSED

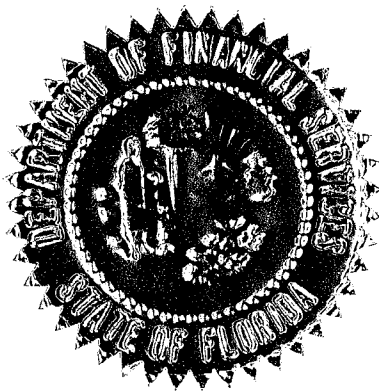
13. The Order Closing File, wherein Administrative Law Judge Arrington closed the Division of Administrative Hearing's file and relinquished jurisdiction to the Department, taken together with the Findings of Fact and Conclusions of Law adopted herein, constitute grounds for the Chief Financial Officer to impose the penalty as set forth herein.


IT IS THEREFORE ORDERED that:

a) Farthing shall immediately pay the total penalty of \$82,807.83 in full to the Department of Financial Services for deposit into the Workers' Compensation Administration Trust Fund.

(b) Farthing shall cease all business activities in the State of Florida until such time as the Department issues an order releasing the Stop-Work Order and Order of Penalty Assessment and the 4th Amended Order of Penalty Assessment. The Department shall not issue an order releasing the Stop-Work Order and Order of Penalty Assessment and the 4th Amended Order of Penalty Assessment until such time as Farthing has paid the penalty of \$82,807.83 and come into compliance with the coverage requirements of Chapter 440, Florida Statutes.

DONE AND ORDERED this 29th day of August, 2011.




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 the Agency Clerk at Room 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida, 32399-0333 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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