

**FILED**

OCT 14 2011

003356



CHIEF FINANCIAL OFFICER  
JEFF ATWATER  
STATE OF FLORIDA

Chief Financial Officer  
Docketed by: WAB

**FILED**  
11 OCT 17 PM 1:57  
DIVISION OF  
ADMINISTRATIVE  
HEARINGS

IN THE MATTER OF:

CASE NO.: 11-002-D7-WC

MANUEL VALDEZ

**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 Petition received from MANUEL VALDEZ, as well as the Stop-Work Order and Order of Penalty Assessment, and the Amended Order of Penalty Assessment and being otherwise fully advised in the premises, hereby finds that:

**FINDINGS OF FACT**

1. On January 4, 2011, 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. 11-002-D7 to MANUEL VALDEZ. The Stop-Work Order and Order of Penalty Assessment included a Notice of Rights wherein MANUEL VALDEZ was advised that any request for an administrative proceeding to challenge or contest the Stop-Work Order and Order of Penalty Assessment must conform to Rule 28-106.2015, Florida Administrative Code.
2. On January 14, 2011, the Stop-Work Order and Order of Penalty Assessment was served on MANUEL VALDEZ via certified mail. A copy of the Stop-Work Order and Order of Penalty Assessment is attached hereto as "Exhibit 1" and incorporated herein by reference.

3. On February 2, 2011, the Department issued an Amended Order of Penalty Assessment to MANUEL VALDEZ. The Amended Order of Penalty Assessment assessed a total penalty of \$42,521.76 against MANUEL VALDEZ. The Amended Order of Penalty Assessment included a Notice of Rights wherein MANUEL VALDEZ was advised that any request for an administrative proceeding to challenge or contest the Amended Order of Penalty Assessment must conform to Rule 28-106.2015, Florida Administrative Code.

4. On February 14, 2011, the Amended Order of Penalty Assessment was served via process server on MANUEL VALDEZ. A copy of the Amended Order of Penalty Assessment and Proof of Service is attached hereto as "Exhibit 2" and incorporated herein by reference.

5. On February 18, 2011, MANUEL VALDEZ filed a Petition for Administrative Review Hearing ("Petition") with the Department. The petition for administrative review was forwarded to the Division of Administrative Hearings on August 1, 2011, and the matter was assigned DOAH Case No. 11-3850. A copy of the petition is attached hereto as "Exhibit 3" and incorporated herein by reference.

6. On September 7, 2011, the Petitioner filed with DOAH a Motion to Deem Matters Admitted and to Relinquish Jurisdiction Pursuant to Section 120.57 (1)(i), Florida Statutes. A copy of the Motion to Deem Matters Admitted and to Relinquish Jurisdiction Pursuant to Section 120.57 (1)(i), Florida Statutes is attached hereto as "Exhibit 4" and incorporated herein by reference.

7. On September 29, 2011, the Department a received copy of an Order granting Petitioner's Motion to Deem Matters Admitted and to relinquishing jurisdiction pursuant to Section 120.57 (1)(i), Florida Statutes. A copy of the Order Relinquishing Jurisdiction and Closing File is attached hereto as "Exhibit 5" and incorporated herein by reference.

8. The factual allegations contained in the Stop-Work Order and Order of Penalty Assessment, and the Amended Order of Penalty Assessment issued January 4, 2011 and February 2,

2011, respectively, are fully incorporated herein by reference, and are adopted as the Department's Findings of Fact in this matter.

**CONCLUSIONS OF LAW**

9. The conclusions of law contained in the Stop-Work Order and Order of Penalty Assessment, and the Amended Order of Penalty Assessment issued January 4, 2011 and February 2, 2011, respectively, which are fully incorporated herein by reference, are adopted as the Department's Conclusions of Law in this matter.

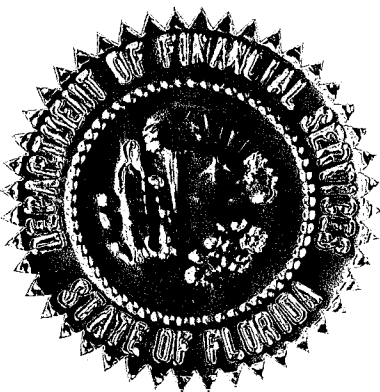
**IT IS HEREBY ORDERED** that


a. The Stop-Work Order and Order of Penalty Assessment and the Amended Order of Penalty Assessment against MANUEL VALDEZ issued on January 4, 2011 and February 2, 2011, respectively, are affirmed; and

b. MANUEL VALDEZ shall immediately pay the total penalty of \$42,521.76 in full to the Department of Financial Services for deposit into the Workers' Compensation Administration Trust Fund.

c. MANUEL VALDEZ shall immediately cease all business operations 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 MANUEL VALDEZ has come into compliance with the coverage requirements of Chapter 440, Florida Statutes, and has paid the total penalty of \$42,521.76 to the Department.

**DONE AND ORDERED** on this 14<sup>th</sup> day of October, 2011.



  
E. Tanner Holloman  
Director, Division of Workers' Compensation

## **NOTICE OF RIGHTS**

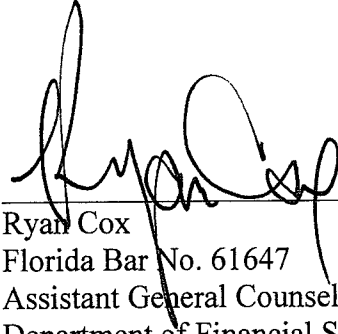
Any party to these proceedings adversely affected by this Order is entitled to seek review of this Order pursuant to Section 120.68, Florida Statutes, and Florida Rule of Appellate Procedure 9.110. Review proceedings must be instituted by filing a Notice of Appeal with Julie Jones, DFS Agency Clerk, 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 has been sent via U.S.

Mail to Manuel Valdez, 1809 51<sup>st</sup> Street, SW, Naples, Florida 34116 this 10<sup>th</sup> day of

October, 2011.



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