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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

IN THE MATTER OF:

Case No.: 10-320-1A-WC

MARIO PAINTING, L.L.C.
_____ /

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 MARIO PAINTING, L.L.C., the Stop-Work Order and Order of Penalty Assessment, and the Amended Order of Penalty Assessment, the 2nd Amended Order of Penalty Assessment, the Stipulated Motion to Relinquish Jurisdiction, and the Order Relinquishing Jurisdiction and Closing File, and being otherwise fully advised in the premises, hereby finds that:

1. On August 5, 2010, 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. 10-320-1A to MARIO PAINTING, L.L.C. The Stop-Work Order and Order of Penalty Assessment included a Notice of Rights wherein MARIO PAINTING, L.L.C. 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 August 5, 2010, the Stop-Work Order and Order of Penalty Assessment was served by personal service on MARIO PAINTING, L.L.C. 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 August 12, 2010, the Department issued an Amended Order of Penalty Assessment to MARIO PAINTING, L.L.C. The Amended Order of Penalty Assessment assessed a total penalty of ~~\$32,830.40~~ against MARIO PAINTING, L.L.C. The Amended Order of Penalty Assessment included a Notice of Rights wherein MARIO PAINTING, L.L.C. 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 August 16, 2010, the Amended Order of Penalty Assessment was served by personal service on MARIO PAINTING, L.L.C. A copy of the Amended Order of Penalty Assessment is attached hereto as "Exhibit B" and incorporated herein by reference.

5. On September 2, 2010, MARIO PAINTING, L.L.C. timely filed a request for administrative hearing with the Department. The petition for administrative review was forwarded to the Division of Administrative Hearings on September 8, 2011, and the matter was assigned DOAH Case No. 11-4537. A copy of the petition is attached hereto as "Exhibit C" and incorporated herein by reference.

6. On June 2, 2011, the Department issued a 2nd Amended Order of Penalty Assessment to MARIO PAINTING, L.L.C. The 2nd Amended Order of Penalty Assessment assessed a total penalty of \$26,857.15 against MARIO PAINTING, L.L.C. The 2nd Amended Order of Penalty Assessment included a Notice of Rights wherein MARIO PAINTING, L.L.C. 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.

7. On June 8, 2011, the 2nd Amended Order of Penalty Assessment was served by certified mail on MARIO PAINTING, L.L.C. A copy of the 2nd Amended Order of Penalty Assessment is attached hereto as "Exhibit D" and incorporated herein by reference.

8. On September 14, 2011, the Department filed a Stipulated Motion to Relinquish Jurisdiction Pursuant to Section 120.57(1)(i), Florida Statutes. A copy of the Stipulated Motion to Relinquish Jurisdiction is attached hereto as "Exhibit E" and incorporated herein by reference.

9. On September 14, 2011, the Administrative Law Judge issued an Order Relinquishing Jurisdiction and Closing File. A copy of the Order Relinquishing Jurisdiction and Closing File is attached hereto as "Exhibit F" and incorporated herein by reference.

FINDINGS OF FACT

10. The factual allegations contained in the Stop-Work Order and Order of Penalty Assessment issued on August 5, 2010, the Amended Order of Penalty Assessment issued on August 12, 2010, the 2nd Amended Order of Penalty Assessment issued on June 2, 2011, the Stipulated Motion to Relinquish Jurisdiction filed on September 14, 2011, and the Order Relinquishing Jurisdiction and Closing File issued September 14, 2011, which are fully incorporated herein by reference, are hereby adopted as the Department's Findings of Fact in this case.

CONCLUSIONS OF LAW

11. Based upon the Findings of Fact adopted herein, the Department concludes that MARIO PAINTING, L.L.C. 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

12. The Order Relinquishing Jurisdiction and Closing File from the Division of Administrative Hearings and the Withdrawal of Petition, 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:

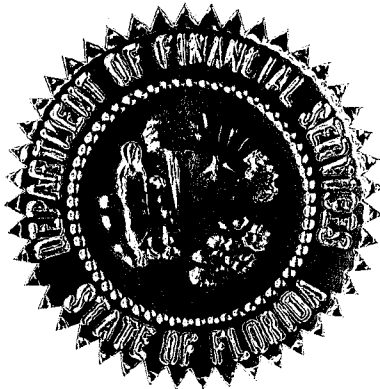
a. MARIO PAINTING, LLC shall immediately pay the total penalty of \$26,857.15 in full to the Department of Financial Services for deposit into the Workers' Compensation Administration Trust Fund;

b. MARIO PAINTING, LLC 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 MARIO PAINTING, LLC has come into compliance with the coverage requirements of Chapter 440, Florida Statutes and has paid a total penalty of \$26,857.15 to the Department.

DONE AND ORDERED on this 27th day of October, 2011.



E. Tanner Holloman
Director, Workers' Compensation



NOTICE OF RIGHTS

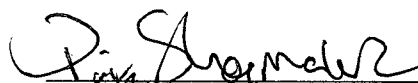
Any party to these proceedings adversely affected by this Order is entitled to seek review of this Order pursuant to Section 120.68, Florida Statutes, and Florida Rule of Appellate Procedure 9.110. Review proceedings must be instituted by filing a Notice of Appeal with Julie Jones, DFS Agency Clerk, 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 Nicholas Yonclas, Esq., 19 Island Drive, Eastpoint, Florida 32328, P.O. Box 386,

Eastpoint, Florida 32328, on this 27th day of October, 2011.



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