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CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

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DIVISION OF
ADMINISTRATIVE
HEARINGS

Chief Financial Officer
Docketed by: YAB

IN THE MATTER OF

CASE NO. 11-264-D3-WC

WILLIAM MANFULL
_____ /

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 WILLIAM MANFULL, 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 October 17, 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. 11-264-D3 to WILLIAM MANFULL. The Stop-Work Order and Order of Penalty Assessment included a Notice of Rights wherein WILLIAM MANFULL 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 October 17, 2011, the Stop-Work Order and Order of Penalty Assessment was served by personal service on WILLIAM MANFULL. 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 3, 2011, the Department received an Election of Proceeding requesting administrative review ("Petition") from WILLIAM MANFULL. A copy of the Petition is attached hereto as "Exhibit B" and incorporated herein by reference.

4. On November 4, 2011, the Department issued an Amended Order of Penalty Assessment to WILLIAM MANFULL. The Amended Order of Penalty Assessment assessed a total penalty of \$29,807.99 against WILLIAM MANFULL. The Amended Order of Penalty Assessment included a Notice of Rights wherein WILLIAM MANFULL 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 Section 120.569 and 120.57, Florida Statutes, and must conform to Rule 28-106.2015, Florida Administrative Code.

5. On December 5, 2011, the Amended Order of Penalty Assessment was served by certified mail on WILLIAM MANFULL. A copy of the Amended Order of Penalty Assessment is attached hereto as "Exhibit C" and incorporated herein by reference.

6. On December 6, 2011, the Department referred the matter to the Division of Administrative Hearings for assignment of an Administrative Law Judge, and the matter was assigned DOAH Case No. 11-6188.

7. On April 26, 2012, the Department issued a 2nd Amended Order of Penalty Assessment to WILLIAM MANFULL. The 2nd Amended Order of Penalty Assessment assessed a total penalty of \$14,431.65 against WILLIAM MANFULL. The 2nd Amended Order of Penalty

Assessment included a Notice of Rights wherein WILLIAM MANFULL 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 Section 120.569 and 120.57, Florida Statutes, and must conform to Rule 28-106.2015, Florida Administrative Code.

8. On May 1, 2012, the 2nd Amended Order of Penalty Assessment was served by personal service on WILLIAM MANFULL. A copy of the 2nd Amended Order of Penalty Assessment is attached hereto as "Exhibit D" and incorporated herein by reference.

9. On May 2, 2012, the Department and WILLIAM MANFULL entered into a Settlement Agreement. Under the Settlement Agreement, WILLIAM MANFULL must pay a total penalty of \$14,431.65, or enter into a Periodic Payment Schedule for Periodic Payment of Penalty upon a down payment of \$1,443.17 within thirty days of the execution of the Settlement Agreement. The Agreement also provides that the petition be dismissed with prejudice upon the execution of the Settlement Agreement. A copy of the Settlement Agreement is attached hereto as "Exhibit E" and incorporated herein by reference.

10. On May 7, 2012, Administrative Law Judge John D. C. Newton, II issued an Order Closing File and Relinquishing Jurisdiction as a result of the executed Settlement Agreement. A copy of the Order is attached hereto as "Exhibit F" and incorporated herein by reference.

11. As of the date of this Final Order, WILLIAM MANFULL has failed to comply with the conditions of the Settlement Agreement. The Department has received no payment from WILLIAM MANFULL in this matter, nor have the parties entered into a Periodic Payment Agreement at this time.

FINDINGS OF FACT

12. The factual allegations contained in the Stop-Work Order and Order of Penalty Assessment issued on October 17, 2011, the Amended Order of Penalty Assessment issued on November 4, 2011, and the 2nd Amended Order of Penalty Assessment issued on April 26, 2012, attached as exhibits 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 WILLIAM MANFULL violated the specific statutes and rules alleged in the Stop-Work Order and Order of Penalty Assessment, and the 2nd Amended Order of Penalty Assessment. The Department hereby adopts the violation(s) charged in the Stop-Work Order and Order of Penalty Assessment, and the 2nd Amended Order of Penalty Assessment.

PENALTY IMPOSED

15. The Executed Settlement Agreement, the Stop-Work Order and 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. WILLIAM MANFULL shall immediately pay the entire penalty balance of \$14,431.65 in full to the Department of Financial Services for deposit into the Workers' Compensation Administration Trust Fund;

b. WILLIAM MANFULL 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 WILLIAM MANFULL has come into compliance with the coverage requirements of Chapter 440, Florida Statutes and has paid the remaining penalty balance of \$14,431.65 to the Department.

DONE AND ORDERED on this 13th day of August, 2012.



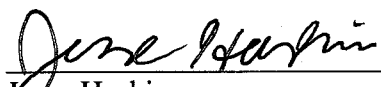

E. Tanner Holloman
Director, Workers' Compensation

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 the person(s) listed below, on this 13th day of August, 2012.



Jesse Haskins
Florida Bar No. 78974
Assistant General Counsel
Department of Financial Services
Division of Legal Services
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850-413-1912
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Copies to:

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