

FILED

APR 20 2012

000402



FILED
12 APR 23 PM 1:43
DIVISION OF
ADMINISTRATIVE
HEARINGS

Chief Financial Officer
Docketed by: ASB

CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

IN THE MATTER OF:

CASE NO.: 10-432-D3-WC

J & L CONSTRUCTION SERVICES, INC.
_____ /

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 J & L CONSTRUCTION SERVICES, INC., 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 October 7, 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. 10-432-D3 to J & L CONSTRUCTION SERVICES, INC. The Stop-Work Order and Order of Penalty Assessment included a Notice of Rights wherein J & L CONSTRUCTION SERVICES, INC. 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 August 3, 2011, the Stop-Work Order and Order of Penalty Assessment was served by personal service on J & L CONSTRUCTION SERVICES, INC. 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 November 15, 2010, the Department issued an Amended Order of Penalty Assessment in Division of Workers' Compensation Case No. 10-432-D3 to J & L CONSTRUCTION SERVICES, INC. assessing a total penalty in the amount of \$90,803.79. The Amended Order of Penalty Assessment included a Notice of Rights wherein J & L CONSTRUCTION SERVICES, INC. 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 August 3, 2011, the Amended Order of Penalty Assessment was served by personal service on J & L CONSTRUCTION SERVICES, INC. A copy of the Amended Order of Penalty Assessment is attached hereto as "Exhibit 2" and incorporated herein by reference.

5. On August 24, 2011, J & L CONSTRUCTION SERVICES, INC. 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 January 26, 2012, and the matter was assigned DOAH Case No. 12-0411. A copy of the petition is attached hereto as "Exhibit 3" and incorporated herein by reference.

6. On February 2, 2012, the Petitioner served on Respondent the Department's First Interlocking Discovery Requests via overnight mail.

7. On March 7, 2012, the Petitioner filed with DOAH a Motion to Compel Discovery Responses. A copy of the Motion to Compel Discovery Responses (without Exhibits) is attached hereto as "Exhibit 4" and incorporated herein by reference.

8. On March 14, 2012, the Petitioner filed a Unilateral Motion to Continue Administrative Hearing. A copy of the Unilateral Motion to Continue Administrative Hearing is attached hereto as "Exhibit 5" and incorporated herein by reference.

9. On March 26, 2012, per the Administrative Law Judge's Order, the Petitioner attended a Telephonic Conference with the Judge regarding the outstanding Motion to Compel Discovery Responses and the Unilateral Motion to Continue.

10. On March 26, 2012, the Petitioner filed a Motion to Relinquish Jurisdiction. A copy of the Motion to Relinquish Jurisdiction (without Exhibit) is attached hereto as "Exhibit 6" and incorporated herein by reference.

11. On April 11, 2012, the Department received a copy of an Order Closing File and Relinquishing Jurisdiction. A copy of the Order Closing File and Relinquishing Jurisdiction is attached hereto as "Exhibit 7" and incorporated herein by reference.

12. The factual allegations contained in the Stop-Work Order and Order of Penalty Assessment, issued on October 7, 2010 and the Amended Order of Penalty Assessment, issued on November 15, 2010, are fully incorporated herein by reference, and are adopted as the Department's Findings of Fact in this matter.

CONCLUSIONS OF LAW

13. The conclusions of law contained in the Stop-Work Order and Order of Penalty Assessment, issued on October 7, 2010 and the Amended Order of Penalty Assessment, issued on November 15, 2010, 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 against J & L CONSTRUCTION SERVICES, INC., issued on October 7, 2010, and the Amended Order of Penalty Assessment, issued on November 15, 2010, are affirmed; and

b. J & L CONSTRUCTION SERVICES, INC. shall immediately pay the total penalty of \$90,803.79 in full to the Department of Financial Services for deposit into the Workers' Compensation Administration Trust Fund.

c. J & L CONSTRUCTION SERVICES, INC. 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 J & L CONSTRUCTION SERVICES, INC. has come into compliance with the coverage requirements of Chapter 440, Florida Statutes, and has paid the total penalty of \$90,803.79 to the Department.

DONE AND ORDERED on this 20th day of April, 2012.



E. Tanner Holloman
Director, Division of Workers' Compensation

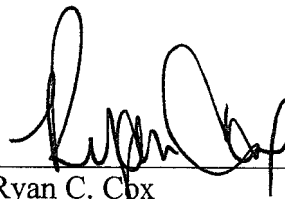


NOTICE OF RIGHTS

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 was furnished Carlos Villa, authorized representative for J & L CONSTRUCTION SERVICES, INC., 10413 Trinity Lane, Gibsonton, Florida 33534-4802; Wanda Rivera, Investigator for the Department via facsimile at (813) 233-3741; and to the Division of Legal Services file via, copies, this 20th day of April, 2012.



Ryan C. Cox
Florida Bar Number: 61647
Assistant General Counsel
Department of Financial Services
Division of Legal Services
200 E. Gaines Street
Tallahassee, FL 32399-4229
850 413-1606