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Chief Financial Officer
Docketed by: RSB

CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

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2012 MAY 22 A 10:39
DIVISION OF
ADMINISTRATIVE
HEARINGS

IN THE MATTER OF:

SURE PAVE OF N.W. FL, INC.,
_____ /

Case No.: 11-211-1A-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 request for administrative hearing received from SURE PAVE OF N.W. FL, INC., the Stop-Work Order and Order of Penalty Assessment, and 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 June 27, 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. 11-211-1A to SURE PAVE OF N.W. FL, INC. The Stop-Work Order and Order of Penalty Assessment included a Notice of Rights wherein SURE PAVE OF N.W. FL, INC. 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 June 27, 2011, the Stop-Work Order and Order of Penalty Assessment was served by personal service on SURE PAVE OF N.W. FL, INC. 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 5, 2011, SURE PAVE OF N.W. FL, INC. timely filed a request for administrative hearing with the Department. The petition for administrative review was forwarded to the Division of Administrative Hearings on February 2, 2012, and the matter was assigned DOAH Case No. 12-0482. A copy of the petition is attached hereto as "Exhibit B" and incorporated herein by reference.

4. On July 13, 2011, the Department issued an Amended Order of Penalty Assessment to SURE PAVE OF N.W. FL, INC. The Amended Order of Penalty Assessment assessed a total penalty of \$44,615.26 against SURE PAVE OF N.W. FL, INC. The Amended Order of Penalty Assessment included a Notice of Rights wherein SURE PAVE OF N.W. FL, INC. 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.

5. On July 16, 2011, the Amended Order of Penalty Assessment was served by certified mail on SURE PAVE OF N.W. FL, INC. A copy of the Amended Order of Penalty Assessment is attached hereto as "Exhibit C" and incorporated herein by reference.

6. On February 9, 2012, the Department served by U.S. mail its First Interlocking Discovery Requests ("discovery requests") which included requests for admissions, interrogatories, and requests for production on Respondent. Respondent was required to serve its answers upon the Department within 30 days pursuant to Rules 1.340(a), 1.350(b), and 1.370(a),

Florida Rules of Civil Procedure. However, pursuant to Rule 128-106.103, Florida Administrative Code, "five days shall be added to the time limits when service has been made by regular U.S. mail." Therefore, Respondent was required to respond to the discovery on or before March 15, 2012.

7. On March 7, 2012, the Department issued a 2nd Amended Order of Penalty Assessment to SURE PAVE OF N.W. FL, INC. The 2nd Amended Order of Penalty Assessment assessed a total penalty of \$5,514.83 against SURE PAVE OF N.W. FL, INC.

8. On March 13, 2012, the Department filed an Unopposed Motion to Modify Charging Documents based on the 2nd Amended Order of Penalty Assessment. The Unopposed Motion to Modify Charging Documents Assessment requested that the Administrative Law Judge amend the Charging Documents to reflect the total penalty of \$5,514.83 against SURE PAVE OF N.W. FL, INC.

9. On March 27, 2012, the Administrative Law Judge issued an Order Granting Unopposed Motion to Modify Charging Documents. A copy of the Order Granting Unopposed Motion to Modify Charging Documents with the 2nd Amended Order of Penalty Assessment is attached hereto as "Exhibit D" and incorporated herein by reference.

10. On April 11, 2012, the Department filed an Amended Motion to Compel Discovery and Continue Final Hearing filed after having not received any answer from Respondent to the Department's discovery requests.

11. On April 11, 2012, the Administrative Law Judge issued an Order Granting Amended Motion to Compel Discovery and Continue Final Hearing. The Order Granting Amended Motion to Compel Discovery and Continue Final Hearing ordered SURE PAVE OF N.W. FL, INC. to respond to the Department's discovery on or before April 25, 2012 or the file would be closed and jurisdiction would be relinquished to the Department.

12. On May 1, 2012, the Administrative Law Judge issued an Order Closing File and Relinquishing Jurisdiction. A copy of the Order Relinquishing Jurisdiction and Closing File is attached hereto as "Exhibit E" and incorporated herein by reference.

FINDINGS OF FACT

13. The factual allegations contained in the Stop-Work Order and Order of Penalty Assessment issued on June 27, 2011, the Amended Order of Penalty Assessment issued on July 13, 2011, and the 2nd Amended Order of Penalty Assessment, issued on March 7, 2012, attached as "Exhibit A", "Exhibit C", and "Exhibit D" respectively, and fully incorporated herein by reference, are hereby adopted as the Department's Findings of Fact in this case.

CONCLUSIONS OF LAW

14. The Department has jurisdiction over the subject matter of and the parties to this matter pursuant to Chapter 440, Florida Statutes.

15. Based upon the Findings of Fact adopted herein, the Department concludes that SURE PAVE OF N.W. FL, INC. 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

16. The Order Closing File and Relinquishing Jurisdiction from the Division of Administrative Hearings, the Stop-Work Order and Order of Penalty Assessment, the Amended Order of Penalty Assessment, and the 2nd Amended Order of Penalty Assessment taken together

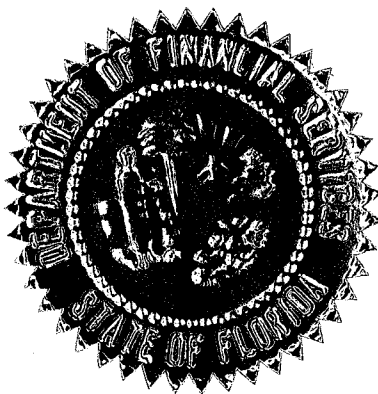
with the Findings of Fact and Conclusions of Law adopted herein, constitute grounds for the Chief Financial Officer to impose the penalty as set forth herein.

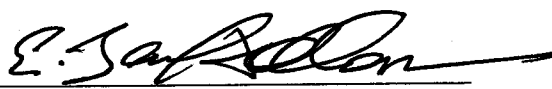
IT IS THEREFORE ORDERED that:

a. SURE PAVE OF N.W. FL, INC. shall immediately pay the total penalty of \$5,514.83 in full to the Department of Financial Services for deposit into the Workers' Compensation Administration Trust Fund; and

b. SURE PAVE OF N.W. FL, INC. 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 SURE PAVE OF N.W. FL, INC. has come into compliance with the coverage requirements of Chapter 440, Florida Statutes and has paid a total penalty of \$5,514.83 to the Department.

DONE AND ORDERED on this 21st day of May, 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 21st day of May, 2012.

Stefan R. Grow
Stefan R. Grow
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Assistant General Counsel
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Workers' Compensation Section
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