

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF AGRICULTURE)
AND CONSUMER SERVICES,)
)
Petitioner,)
)
vs.) Case No. 12-1055
)
LEE ANN KENNEDY AND)
KENCO INDUSTRIES, L.L.C.,)
)
Respondents.)
_____)

RECOMMENDED ORDER

Pursuant to notice, a hearing was conducted in this case pursuant to sections 120.569 and 120.57(1), Florida Statutes,^{1/} before Cathy M. Sellers, an Administrative Law Judge of the Division of Administrative Hearings ("DOAH"), on May 29, 2012, by video teleconference at sites in Miami and Tallahassee, Florida.

APPEARANCES

For Petitioner: David W. Young, Esquire
Alyssa Cameron, Esquire
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Department of Agriculture
and Consumer Services
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For Respondent: Lee Ann Kennedy, pro se
Kenco Industries, L.L.C.
2471 Country Golf Drive
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STATEMENT OF THE ISSUE

Whether Respondents Lee Ann Kennedy ("Kennedy") and Kenco Industries, L.L.C. ("Kenco"), engaged in various activities constituting pest control under chapter 482 without having obtained the required licenses from Petitioner Department of Agriculture and Consumer Services, in violation of sections 482.161(1)(j), 482.165(1), and 465.191(1), Florida Statutes.

PRELIMINARY STATEMENT

On November 17, 2011, Petitioner filed an Amended Administrative Complaint against Respondents, charging them with violating several provisions of chapter 482. Specifically, in Count 1, Petitioner charged Kennedy with impersonating a pest control inspector employed by Petitioner, conducting inspections of food establishments, making corrective recommendations, and representing to those establishments that she would conduct follow-up inspections to determine compliance, in violation of section 482.161(1)(j). Count 2 charged that both Kennedy and Kenco advertised that they provided pest control services without obtaining a pest control business license, in violation of sections 482.165(1) and 482.191(1). Count 3 charged that Kennedy, both individually and on behalf of Kenco, solicited

business on behalf of a pest control business (Outside In Pest Control, Inc.) without having been licensed by Petitioner to perform pest control, in violation of sections 482.165(1) and 482.191(1). Respondents timely requested an administrative hearing under sections 120.569 and 120.57(1), and the case was referred to DOAH for assignment of an administrative law judge and conduct of a hearing.

The final hearing was held on May 29, 2012. Petitioner presented the testimony of Hung The Thach, Ali Jaber, David Chang, Dennis O'Rourke, Robert Brockway, and John Berquist, and offered Exhibits 3, 5, 6, 8, 9, 10, 12, 13, 14, 15, and 16 for admission into evidence. All but Exhibit 16 were admitted without objection; Exhibit 16 was not admitted on the basis of redundancy. Respondent Kennedy testified on her own behalf and on behalf of Respondent Kenco, and offered Exhibits A, B, C, E-1 and E-2 into evidence. Exhibits A, E-1, and E-2 were admitted without objection; Exhibit C was admitted over a relevancy objection; and Exhibit B was not admitted as irrelevant.

The parties did not order a transcript of the final hearing. They were given until June 8, 2012, to file their proposed recommended orders. The parties timely filed Proposed Recommended Orders, which were considered in preparing this Recommended Order.

FINDINGS OF FACT

The Parties

1. Petitioner is the state agency charged with administering the Structural Pest Control Act, chapter 482.

2. Respondent Kennedy is a resident of Wellington, Florida.

3. Respondent Kenco Industries, L.L.C., is a registered Florida Limited Liability Company. Kennedy is the manager and sole member of, and the registered agent for, Kenco.

Pest Control Regulation under Chapter 482, Florida Statutes

4. Chapter 482 authorizes Petitioner to regulate activities constituting "pest control" and to impose sanctions for violations of that chapter.

5. "Pest control" is broadly defined in section 483.021(22) as:

- (a) The use of any method or device or the application of any substance to prevent, destroy, repel, mitigate, curb, control, or eradicate any pest in, on, or under a structure, lawn, or ornamental;
- (b) The identification of or inspection for infestations or infections in, on, or under a structure, lawn, or ornamental;
- (c) The use of any pesticide, economic poison, or mechanical device for preventing, controlling, eradicating, identifying, inspecting for, mitigating, diminishing, or curtailing insects, vermin, rodents, pest birds, bats, or other pests in, on, or under a structure, lawn, or ornamental;
- (d) All phases of fumigation, including:

1. The treatment of products by vault fumigation; and
2. The fumigation of boxcars, trucks, ships, airplanes, docks, warehouses, and common carriers; and
- (e) The advertisement of, the solicitation of, or the acceptance of remuneration for any work described in this subsection, but does not include the solicitation of a bid from a licensee to be incorporated in an overall bid by an unlicensed primary contractor to supply services to another.

6. Petitioner is authorized to issue licenses to qualified businesses to engage in the business of pest control in this state. § 482.165(1), Fla. Stat. It is unlawful for any person, partnership, firm, corporation, or other business entity to engage in the unlicensed practice of pest control as that term is defined in section 482.021(22). Id.

7. Section 482.191(1) makes unlawful the advertisement of pest control services except as authorized under chapter 482. Absent limited circumstances not applicable here, persons or entities engaging in such advertisement must be licensed by Petitioner to practice pest control.

8. Petitioner also is authorized to fine persons who impersonate an employee of Petitioner. § 482.161(1)(j), Fla. Stat.

Respondents' Acts Alleged to Violate Chapter 482

9. Respondent Kennedy did not hold a pest control business license or other license to practice pest control at any time relevant to this proceeding.^{2/}

10. Respondent Kenco also did not hold a pest control business license or other license to practice pest control at any time relevant to this proceeding.

11. On or about April 1, 2011, Kennedy entered Saigon Oriental Market in Lake Park, Florida. According to its owner, Hung The Thach, Kennedy walked around the store inspecting it, then told him that she was employed by Petitioner, that some of his produce was infested by insects, and that he would have to have pest control services performed or she would return in a week to conduct another compliance inspection. Kennedy gave Mr. Thach the telephone number for Outside In, a pest control company, and the business card of its owner, Dennis O'Rourke. Concerned that Kennedy would shut down his store or fine him, Mr. Thach called Outside In; the following day, an employee of that company performed pest control services at the store. Outside In performed additional pest control services at the store on or around May 26, 2011. Mr. Thach paid Outside In for these services.

12. In mid-May 2011, Kennedy inspected Fajita's Super Market in Lake Worth, Florida, and told its owner, Ali Jaber,

that she was employed by Petitioner as an inspector, and that he had a fly problem in his store. She recommended that he contact Outside In to correct the problem. Mr. Jaber told her he used another pest control company, but thereafter, a representative from Outside In visited the store, left a business card with Mr. Jaber, and offered to provide pest control services for the store for \$150.00 per month with no contract. Kennedy returned to the store approximately a week later and wanted to know why nothing had been done to correct the fly problem; she also asked an employee of Fajita's who was going to pay for her time to inspect the store; when she was referred to Mr. Jaber, she left the store and did not return.

13. On or around May 24, 2011, Kennedy entered the Fortune Cookie oriental supermarket in West Palm Beach, Florida, and told its president, David Chang, that she was with an inspector with Petitioner. She inspected the store, told him that there was a fly problem, and stated she would return in two weeks. Mr. Chang testified that Kennedy did not provide him the name of any pest control businesses, but that approximately a week before Kennedy inspected the store, a representative of Outside In had come to the store and tried to sell him pest control services, but that he had declined to purchase the services at that time.

14. Dennis O'Rourke, President of Outside In, testified that Kennedy was not on his company's payroll, but that she had solicited pest control business for his company for approximately four months prior to September 2011. She successfully solicited four accounts and he paid her 30% of the profits made on those accounts. At the time she solicited the accounts, she did not possess a valid identification card to perform pest control services on behalf of Outside In.^{3/} Mr. O'Rourke subsequently obtained a valid identification card for Kennedy so that she could perform pest control, including business solicitation, for his company.

15. Petitioner initiated an investigation of Kennedy in June 2011, after being notified by several small food markets in Palm Beach County that she was holding herself out as a food inspector with Petitioner, inspecting the stores, notifying the store operators that there was a pest problem, and recommending that Outside In be contacted to correct the problem.

16. In the course of the investigation, on September 7, 2011, John Berquist, an inspector with Petitioner's Bureau of Entomology and Pest Control, took photographs of Kennedy's motor vehicle^{4/} bearing magnetic signs on the front passenger and driver side doors labeled "Kenco Industries," which depicted a photograph of Kennedy and advertised the provision of pest control services.

17. Berquist checked Petitioner's pest control licensing records and determined that Petitioner had not issued a pest control business license or other pest control license to Kennedy or to Kenco.

18. At the hearing, Kennedy acknowledged that she conducted food store inspections, pointed out pest problems to store operators, and recommended that they contact Outside In for pest control service. However, she denied holding herself out as an employee of Petitioner. She testified that she is certified in food safety by the Department of Health and that if she observed a pest problem while shopping, she would show her food safety certification card to the store operator and point out the problem. She claimed she did this because she is Vietnamese, so often shops at Asian food markets and wants the stores where she purchases her family's food to be pest-free. She also claimed that she only wanted the stores "to get what they needed" in the way of pest control service and that it did not matter whether she was compensated for soliciting business for Outside In. However, she acknowledged that she had been compensated by Outside In for the pest control business she had successfully solicited on their behalf.

19. Kennedy testified that she did not intend to do anything that was against the law, and was not aware that she was engaging in conduct that violated the law.

20. The evidence established that neither Kennedy nor Kenco previously violated chapter 482 or Petitioner's rules.

Ultimate Findings of Fact Regarding Alleged Violations

21. Based on the foregoing, Petitioner established, by clear and convincing evidence, that Kennedy impersonated an employee of Petitioner, as alleged in Count 1 of the Amended Administrative Complaint, in violation of section 482.161(1)(j). Kennedy's testimony that she did not hold herself out as an employee of Petitioner was contradicted by all other witnesses and was not credible.

22. Petitioner also established, by clear and convincing evidence, that Kennedy and Kenco advertised pest control services without obtaining a pest control business license in violation of sections 482.165(1) and 482.191(1). There was no dispute that Kennedy advertised the provision of pest control services by herself and by Kenco by placing signs on her vehicle depicting her image and Kenco's business name. Further, Kennedy is Kenco's manager, sole member, and agent, so her actions in advertising the provision of pest control services by Kenco are imputed to Kenco.^{5/}

23. Petitioner also proved, by clear and convincing evidence, that Kennedy solicited pest control business for Outside In for compensation, in violation of sections 482.165(1) and 482.191(1). Kennedy's testimony that she was motivated by

altruism and personal interest in food safety at markets where she shopped, rather than by being compensated for soliciting business for Outside In, was not credible. The undisputed evidence establishes that she was compensated by Outside In for soliciting pest control business on its behalf.

24. However, Petitioner did not establish, by clear and convincing evidence, that Kenco solicited business on behalf of Outside In. The evidence does not show that Kennedy represented to the food store operators that she was acting on behalf of Kenco when she solicited business for Outside In. To the contrary, the evidence established that Kennedy represented that she was an inspector employed by Petitioner. Accordingly, it is determined that Kenco did not solicit pest control business for Outside In, in violation of sections 482.165(1) and 482.191(1).

25. As further addressed below, Petitioner's Enforcement and Penalties rule, Florida Administrative Code Rule 5E-14.149, makes the deliberate commission of an act that constitutes a violation of chapter 482 an aggravating factor in determining the applicable fine. Here, the evidence shows that Kennedy intentionally misrepresented that she was employed by Petitioner specifically to solicit and induce food store operators to purchase pest control services for which she would be compensated. Accordingly, it is determined that Kennedy acted deliberately in impersonating an employee of Petitioner and in

soliciting business on behalf of Outside In for compensation. Furthermore, the evidence shows that Kennedy—and by operation of the law of agency, Kenco—deliberately engaged in advertising the provision of pest control services without having obtained the required license.

CONCLUSIONS OF LAW

26. The Division of Administrative Hearings has jurisdiction over the parties to, and subject matter of, this proceeding pursuant to sections 120.569 and 120.57(1) Florida Statutes.

27. Petitioner has charged Respondent Kennedy with violating sections 482.161(1)(j), 482.165(1), and 482.191(1), Florida Statutes.

28. Petitioner has charged Respondent Kenco with violating sections 482.165(1) and 482.191(1), Florida Statutes.

29. Section 482.161(1) provides in pertinent part:

(1) The department may issue a written warning to or impose a fine against, or deny the application for licensure or licensure renewal of, a licensee, certified operator, limited certificateholder, identification cardholder, or special identification cardholder or any other person, or may suspend, revoke, or deny the issuance or renewal of any license, certificate, limited certificate, identification card, or special identification card that is within the scope of this chapter, in accordance with chapter 120, upon any of the following grounds:

(a) Violation of any provision of this chapter or any rule of the department adopted pursuant to this chapter.

* * *

(j) Impersonation of a department employee.

30. Section 482.165(1) provides:

(1) It is unlawful for a person, partnership, firm, corporation, or other business entity not licensed by the department to practice pest control.

31. Section 482.191(1) provides:

(1) It is unlawful to solicit, practice, perform, or advertise in pest control except as provided by this chapter.

32. These statutes and rules are penal and, therefore, must be strictly construed, with ambiguities resolved in favor of the licensee. Lester v. Dep't of Prof'l & Occ. Reg., 348 So. 2d 923, 925 (Fla. 1st DCA 1977). Further, whether Respondent committed violations of statutory provision is a question of ultimate fact to be decided by the trier-of-fact. McKinney v. Castor, 667 So. 2d 387, 389 (Fla. 1st DCA 1995); Langston v. Jamerson, 653 So. 2d 489, 491 (Fla. 1st DCA 1995).

33. For Petitioner to sanction Respondents, it must prove the charges specifically alleged in the administrative complaint by clear and convincing evidence. Ferris v. Turlington, 510 So. 2d 292, 294 (Fla. 1987); Cottrill v. Dep't of Ins., 685 So. 2d

1371, 1372 (Fla. 1st DCA 1996); Kinney v. Dep't of State, 501 So. 2d 129, 133 (Fla. 5th DCA 1987).

34. Florida courts have described clear and convincing evidence as follows:

Clear and convincing evidence requires that the evidence must be found to be credible; the facts to which the witnesses testify must be distinctly remembered; the testimony must be precise and explicit and the witnesses must be lacking confusion as to the facts in issue. The evidence must be of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established.

In re Davey, 645 So. 2d 398, 404 (Fla. 1994); Slomowitz v. Walker, 429 So. 2d 797, 800 (Fla. 4th DCA 1983).

35. As discussed above, with the exception of the violation by Kenco of sections 482.165(1) and 482.191 alleged in Count 2, Petitioner proved, by clear and convincing evidence, that Kennedy and Kenco committed the violations alleged in the Amended Administrative Complaint.

36. Section 482.161(7) authorizes Petitioner to impose administrative fines for violations of chapter 482. That statute provides:

(7) The department, pursuant to chapter 120, in addition to or in lieu of any other remedy provided by state or local law, may impose an administrative fine, in an amount not exceeding \$5,000, for the violation of any of the provisions of this chapter or of

the rules adopted pursuant to this chapter. In determining the amount of fine to be levied for a violation, the following factors shall be considered:

- (a) The severity of the violation, including the probability that the death, or serious harm to the health or safety, of any person will result or has resulted; the severity of the actual or potential harm; and the extent to which the provisions of this chapter or of the rules adopted pursuant to this chapter were violated;
- (b) Any actions taken by the licensee or certified operator in charge, or limited certificateholder, to correct the violation or to remedy complaints;
- (c) Any previous violations of this chapter or of the rules adopted pursuant to this chapter; and
- (d) The cost to the department of investigating the violation.

37. Rule 5E-14.149,^{6/} entitled "Enforcement and Penalties," authorizes Petitioner to impose penalties for violations of chapter 482, and sets forth the factors Petitioner must consider in determining the penalty. Subsection (1) of the rule also authorizes Petitioner to impose penalties under section 482.161, in lieu of the rule.

38. Subsection (3) of the rule provides in pertinent part: "(3) Category of Violations. Minor violations are all violations other than those classified as major violations. Major violations are violations where: . . . (k) An individual or business performs pest control without holding a valid license from the Department."

39. Subsection (8) of the rule provides:

(8) Fines. For repeat non-major violations, multiple violations including at least one major violation, and all major violations, including those violators who do not respond to an administrative complaint, the Department will impose an administrative fine not to exceed \$5,000 per violation plus any other penalty allowed by law including suspension or revocation. When imposing a fine, the Department will consider the degree and extent of harm, or potential harm, that was or could have been caused by the violation, the cost of rectifying the damage minus the actions taken by the licensee or certified operator or applicator to correct the violation or remedy complaints, whether the violation was committed willfully, the compliance record of the violator, and the costs to the Department of investigating the violation. The Department will use the attached Fine Guide to assist it in determining the appropriate amount of the fine.

40. Subsection (14) of the rule provides:

(14) Fine Guide. FINE GUIDE = $A(B+C+D+E+F)G$. This guide shall apply for each violation for which a fine is imposed. The maximum fine is \$5,000 per violation. The terms and values used in the fine guide calculation shall be:

A = Degree & Extent of Harm - Human, animal and environmental hazards occur as a result of pesticide misuse or mismanagement of another pest control method:

1 Human, animal or environmental harm not identified

5 Death of animals or injury to humans or animals requiring hospitalization, or serious harm to an ecological system, or contamination of water or soil requiring corrective action or monitoring to protect human health or the environment

7 Human death

B = Toxicity of the pesticide for which a pesticide misuse or violation, of label

directions which could result in human or animal hazards:

0 No pesticide involved in complaint

1 Category III or IV - Signal Word "Caution"

2 Category II - Signal Word "Warning"

3 Category I - Signal Word "Danger"

C = Estimated cost of rectifying the damage to consumer minus any mitigation provided by the violator

1 Unknown or under \$1,000

2 Over \$1,000 and under \$5,000

3 Over \$5,000 and under \$10,000

4 Over \$10,000

D = Whether the violation was committed deliberately

1 No evidence violation was committed deliberately

5 Evidence violation was committed deliberately

E = Compliance record of the violator

0 No prior violations

1 One prior violation for a dissimilar violation

2 Two or more prior violations dissimilar to current violation

3 One prior violation for a similar violation

4 Two or more prior violations for similar violations

F = Investigative Costs

0 Routine investigation or Payment of all investigative costs

2 Violation documented as a result of more than one inspection or requiring investigation by multiple inspectors, or by department personnel outside of the division of Agricultural Environmental Services

G = Entity Category

500 Business licensee responsible for violation, or person operating a pest control business without a valid business license

250 Certified Operator or Special Identification Cardholder responsible for violation

100 All others

Compliance record. The compliance record is established by prior disciplined violations, within the three (3) years preceding the date of the current violation, of Chapter 482, F.S., or of Chapter 5E-14, F.A.C., or of federal or other Florida law addressing pest control or pesticide use or disposal. Violations will be considered final on acceptance of the applicable penalty, or the date of final agency action or the conclusion of any appeals thereof.

Violation of Section 482.161(1) (j)

41. Pursuant to subsection (3) of the rule, Kennedy's impersonation of a pest control inspector employed by Petitioner is a non-major (i.e., minor) violation; therefore, a fine is not mandated, and a warning letter may be issued to the violator. However, Petitioner is authorized by subsection (8) to impose a fine under the Fine Guide in subsection (14) if, as here, the violation was willfully committed. Petitioner urges, and the undersigned concurs, that under the circumstances present in this case, a fine of \$600.00 is warranted.

Violations of Sections 482.165(1) and 482.191(1)

42. Petitioner urges that Kennedy and Kenco be fined pursuant to section 482.161(7) for violating sections 482.165(1) and 482.191(1), as alleged in Counts 2 and 3 of the Amended Administrative Complaint. Section 482.161(7) authorizes Petitioner to impose a fine, not to exceed \$5000.00, based on the severity of the violation, including probability of death or serious harm; severity of actual or potential harm; extent to

which chapter 482 and Petitioner's rules chapter were violated; any previous violations of chapter or rule; and investigation costs to Petitioner must be considered. Taking these factors into account, the recommended fines for the violations proven pursuant to Counts 2 and 3 are as follows:

(a) Count 2: Petitioner urges that Kennedy and Kenco each be fined \$3,000.00 for advertising pest control services without having a pest control business license. The undersigned agrees that the violations are extensive because they constitute the unlicensed practice of pest control. However, there was essentially no likelihood that the actual violations themselves (i.e., advertising) would cause death or serious harm, and they did not cause actual harm. Furthermore, neither Kennedy nor Kenco had previously violated chapter 482 or Petitioner's rules. Under these circumstances, the undersigned determines that imposing a fine of \$1,000.00 each on Kennedy and Kenco is warranted.

(b) Count 3: Petitioner urges that a fine of \$3,000.00 be imposed, respectively, on Kennedy and Kenco for soliciting pest control business for Outside In without having obtained a license to practice pest control. As previously discussed, Kenco did not solicit business on behalf of Outside In, so Kenco cannot be fined for the violations alleged in Count 3. However, Kennedy did violate sections 482.165(1) and 482.191(1) as

alleged in Count 3, so a fine is warranted. She engaged in the unlicensed practice of pest control, an extensive violation of chapter 482. However, again, there was essentially no likelihood that the violation would cause death or serious harm, and it did not cause actual harm. Moreover, Kennedy did not previously violate chapter 482 or Petitioner's rules. Under these circumstances, the undersigned determines that imposing a fine of \$1,000.00 on Kennedy is warranted.

43. Based on the foregoing, the undersigned determines that Kennedy should be fined \$2,600.00 for violating sections 482.161(1)(j), 482.165(1), and 482.191(1).

44. Based on the foregoing, the undersigned determines that Kenco should be fined \$1,000.00 for violating sections 482.165(1) and 482.191(1).

RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby

RECOMMENDED that Petitioner Department of Agriculture and Consumer Services impose a fine of \$2,600.00 on Respondent Lee Ann Kennedy, and impose a fine of \$1,000.00 on Respondent Kenco Industries, L.L.C.

DONE AND ENTERED this 27th day of June, 2012, in
Tallahassee, Leon County, Florida.



CATHY M. SELLERS
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 27th day of June, 2012.

ENDNOTES

^{1/} All references are to Florida Statutes 2011.

^{2/} Dennis O'Rourke, the owner of Outside In Pest Control, Inc. ("Outside In"), for whom Respondent Kennedy is alleged to have solicited business, applied for and obtained a valid identification card to authorize Kennedy to perform pest control services, including solicitation, on behalf of Outside In. This card was obtained in September 2011, after Kennedy had engaged in the acts alleged to constitute solicitation of business on behalf of Outside In.

^{3/} Petitioner presented evidence that Kennedy did not hold a valid pest inspection card authorizing her to solicit business on behalf of a licensed pest control business, in violation of section 482.091. However, the Amended Administrative Complaint does not specifically charge her with violating section 482.091. Accordingly, she cannot be disciplined in this proceeding for violating that statute. See Cottrill v. Dep't of Ins., 685 So. 2d 1371, 1372 (Fla. 1st DCA 1996); Kinney v. Dep't of State, 501 So. 2d 129, 133 (Fla. 5th DCA 1987) (the grounds for disciplinary

action must be specifically alleged in the administrative complaint).

^{4/} Using the number of the license tag on the motor vehicle bearing the Kenco Industries signs, Berquist requested and obtained from the Department of Highway Safety and Motor Vehicles a report verifying that the vehicle was registered to Kennedy. Kennedy acknowledged that she owned the vehicle depicted in the photographs.

^{5/} See Sumpolec v. Pruco Life Ins. Co., 563 So. 2d 778 (Fla. 3d DCA 1990) (business entity is responsible for violations of the law committed by its agent while acting on behalf of the entity in the scope of his or her agency).

^{6/} The version of rule 5E-14.149 that became effective on August 4, 2008, is applicable to this proceeding. The current version of the rule became effective on May 20, 2012. The evidence establishes that all of the Respondents' acts constituting violations of chapter 482 occurred in 2011, before the current version of the rule became effective. Absent express statutory language, not present here, rules may not be applied retroactively to penalize conduct that occurred before the rule's effective date. See § 120.54(1)(f), Fla. Stat. The undersigned notes that the provisions applicable to this proceeding are identical in the 2008 and current versions of the rule.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.