

FILED

JAN 27 2016

Docketed by mm



CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

DEPARTMENT OF FINANCIAL
SERVICES, DIVISION OF WORKERS'
COMPENSATION,

Petitioner,

CASE NO.: 178975-15-WC

vs.

BERT HALAS, IV,

Respondent

FINAL ORDER

THIS CAUSE came on for entry of a final order. The recommended order finds Bert Halas, IV ("Respondent") meets the requirements for an exemption from chapter 440, Florida Statutes. The administrative law judge (the "ALJ") recommended the Department of Financial Services, Division of Workers' Compensation (the "Division"), enter a final order approving Respondent's notice of election to be exempt and issue Respondent a certificate of election to be exempt. The Division filed exceptions to the recommended order, which are addressed below. Respondent filed responses to the Division's exceptions.

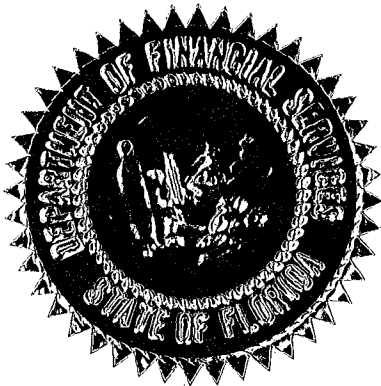
The Division's exceptions refer to recommended order paragraphs six and fourteen, and the ALJ's recommendation, but they raise a single issue.

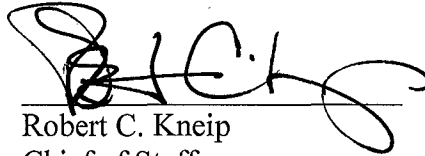
The ALJ, in recommended order paragraph six, found Respondent was not an "affiliated person" with regard to a delinquent business for purposes of section 440.05(15), Florida Statutes. Respondent's alleged connection to the delinquent business was the Division's sole basis for denying an exemption under section 440.05, Florida Statutes, so the ALJ concluded in paragraph

fourteen that Respondent is eligible for the exemption. The ALJ's finding in paragraph six is susceptible to ordinary methods of proof that are not infused with policy considerations. The finding is supported by competent substantial evidence and may not be disturbed. § 120.57(1)(l), Fla. Stat.; *Heifetz v. Dep't of Bus. & Prof. Reg.*, 475 So. 2d 1277 (Fla. 1st DCA 1985). The ALJ's conclusion of law in paragraph fourteen, and the ALJ's recommendation that Respondent receive the exemption, both appropriately flow from the finding in paragraph six. The Division's exceptions are rejected.

The Recommended Order is adopted in full. Accordingly, Respondent's notice of election to be exempt is approved. The Division shall issue Respondent a certificate of election to be exempt.

DONE and ORDERED this 27th day of January, 2016.




Robert C. Kneip
Chief of Staff

NOTICE OF RIGHT TO APPEAL

A party adversely affected by this final order may seek judicial review as provided in section 120.68, Florida Statutes, and Florida Rule of Appellate Procedure 9.190. Judicial review is initiated by filing a notice of appeal with the Agency Clerk, and a copy of the notice of appeal, accompanied by the filing fee, with the appropriate district court of appeal. The notice of appeal must conform to the requirements of Florida Rule of Appellate Procedure 9.110(d), and must be filed (i.e., received by the Agency Clerk) within thirty days of rendition of this final order.

Filing with the Department's Agency Clerk may be accomplished via U.S. Mail, express overnight delivery, hand delivery, facsimile transmission, or electronic mail. The address for overnight delivery or hand delivery is Julie Jones, DFS Agency Clerk, Department of Financial Services, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0390. The facsimile number is (850) 488-0697. The email address is Julie.Jones@myfloridacfo.com.

Copies furnished to:

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