

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF FINANCIAL
SERVICES, DIVISION OF WORKERS'
COMPENSATION,

Petitioner,

vs.

Case No. 17-5900

A.S.A.P. FLOORING, INC.,

Respondent.

_____ /

RECOMMENDED ORDER

On January 10, 2018, Administrative Law Judge Hetal Desai of the Division of Administrative Hearings conducted the final hearing at sites in Tallahassee and Tampa, Florida, by video teleconference.

APPEARANCES

For Petitioner: Jonathan Anthony Martin, Esquire
Florida Department of Financial Services
Legal Services Division
200 East Gaines Street
Tallahassee, Florida 32399

For Respondent: Eric Reinartsen, pro se
A.S.A.P. Flooring, Inc.
215 Mason Street
Brandon, Florida 33511

STATEMENT OF THE ISSUES

Whether Respondent violated the provisions of chapter 440, Florida Statutes (2016),^{1/} by failing to secure the payment of

workers' compensation coverage, as alleged in the Third Amended Order of Penalty Assessment; and, if so, what penalty is appropriate.

PRELIMINARY STATEMENT

On October 24, 2016, the Department of Financial Services, Division of Workers' Compensation ("Department"), issued a Stop-Work Order ("SWO") to Respondent A.S.A.P. Flooring, Inc. ("ASAP Flooring") for failing to secure workers' compensation for its employees as required by chapter 440. The Department also issued an Order of Penalty Assessment ("OPA"), which was amended multiple times.^{2/}

On June 13, 2017, Respondent timely filed a request for a formal administrative hearing to dispute the SWO and OPAs.

On October 27, 2017, the Department referred this matter to the Division of Administrative Hearings ("DOAH"). DOAH assigned an Administrative Law Judge ("ALJ") to hear the dispute who noticed the matter for final hearing.

A week before the final hearing, on January 3, 2018, the Department amended its penalty assessment in the Third Amended OPA.

A pre-hearing conference call was scheduled for January 8, 2017, but ASAP Flooring's representative and owner, Eric Reinartsen, did not call in and could not be reached.

The final hearing was held as scheduled on January 10, 2018. At the hearing, the Department presented the testimony of Christina Brigantty, a Department compliance investigator; and Lynne Murcia, a Department penalty auditor ("Auditor"). The Department offered Exhibits 1 through 11 and 13 through 17, which were admitted into evidence. Respondent offered no exhibits and only the testimony of Mr. Reinartsen.

The Transcript of the final hearing was filed with DOAH on January 19, 2018. Although the Department timely filed a proposed recommended order ("PRO"), Respondent did not file any post-hearing submittal. The Department's PRO was considered in preparing this Recommended Order.

FINDINGS OF FACT

Parties.

1. The Department is responsible for enforcing the requirements of chapter 440, which mandate employers in Florida secure the payment of workers' compensation insurance to cover their employees in case of workplace injuries. § 440.107, Fla. Stat.

2. ASAP Flooring is owned and operated by Mr. Reinartsen; it has been an active corporation since 2006. ASAP Flooring provides flooring, painting and drywall services for construction projects.

3. Ms. Brigantty is a Department compliance investigator. Her job is to ensure compliance by employers in her district with the workers' compensation insurance regulations. Her job duties include conducting investigations triggered either through a report to the Department of non-compliance or through random inspections of workplaces and jobsites. As part of her investigative duties she conducts employer and employee interviews, collects financial documentation, and researches various data banks for corporate and workers' compensation status.

Department's Investigation and Assessment.

4. On October 24, 2016, Ms. Brigantty was driving around Pinellas County as part of her work duties. She stopped to conduct a random check at a residential construction site located at 3583 Douglas Place, Palm Harbor, Florida 34683 ("Jobsite").

5. At the Jobsite, Ms. Brigantty observed two men -- later identified as Eric Reinartsen and Wallace Humbert -- preparing and installing floors. After identifying herself as a compliance officer and interviewing them, she discovered Mr. Reinartsen was the owner of ASAP Flooring, and Mr. Humbert was an ASAP Flooring employee.

6. Mr. Reinartsen admitted ASAP Flooring did not have workers' compensation. At the time, he believed ASAP Flooring was exempt from the workers' compensation insurance requirements

due to his role as a corporate officer and because it only had one employee.

7. During the initial interview, Ms. Brigantty learned Mr. Humbert had worked for ASAP Flooring for four or five months and was paid a flat fee per job.

8. After meeting with Mr. Reinartsen, Ms. Brigantty checked the Florida Department of State, Division of Corporations website to confirm Respondent's status as an active corporation, and that Mr. Reinartsen was its only officer.

9. Mr. Brigantty then used the Department's database, Coverage and Compliance Automated System ("CCAS"), which contained information on employers and their workers' compensation status and any exemptions. According to CCAS, at the time of Ms. Brigantty's inspection, ASAP Flooring had no workers' compensation insurance. CCAS also reflected Respondent had an exemption from the workers' compensation insurance requirements for Mr. Reinartsen because he was its sole corporate officer, but there was no exemption for Mr. Humbert or for any other employees.

10. On October 24, 2016, after confirming ASAP Flooring had at least one employee, but had not secured workers' compensation insurance, the Department issued a SWO and had it personally served on Mr. Reinartsen at the Jobsite.^{3/}

11. At this time, the Department also served Mr. Reinartsen with a Request for Production of Business Records for Penalty Assessment Calculations. In response, Respondent provided bank statements, check images, check stubs, tax information and e-mails to the Department. These documents showed that during the previous two-year period ("look-back period"), October 24, 2014, to October 24, 2016, Respondent had a number of employees, but did not have workers' compensation coverage for them.

12. At the hearing, Respondent did not dispute ASAP Flooring was required to have workers' compensation insurance, the status of the people identified as employees, or the fact that it did not have adequate workers' compensation coverage.^{4/}

Penalty Calculation.

13. To calculate the penalty assessed against Respondent, the Department's Auditor utilized the information she gleaned from documents submitted by Respondent and through Mr. Reinartsen's deposition testimony taken in these proceedings. She then applied the formulas and rules set forth in the Florida Administrative Code to the information and utilized a Penalty Calculation Worksheet (the "worksheet") to compute the final penalty assessment amount. The worksheet for the Third OPA is attached as Appendix "A" to this Recommended Order ("Appx. A").

14. Through her review of ASAP Flooring's business records and Mr. Reinartsen's deposition testimony, the Auditor confirmed

(1) the individuals who were direct employees or construction subcontractors during those periods of non-compliance (Appx. A, column "Employer's Payroll"); (2) the periods of non-compliance (Appx. A, column "b"); (3) the gross payroll for those individuals during these periods of non-compliance (Appx. A, column "c"); and (4) the services provided by those individuals.

15. The Auditor used the services to determine the classification codes created by the National Council on Compensation Insurance ("NCCI"), and listed in the NCCI's Scopes Manual, which has been adopted by the Department through Florida Administrative Code Rule 69L-6.021(1). These classification codes are four-digit codes assigned to various occupations by the NCCI to assist in the calculation of workers' compensation insurance premiums.

16. To derive the gross pay figures in the worksheet (Appx. A, column "c") the Auditor explained she utilized payment information in the ASAP Flooring's business records. Although Respondent initially asserted some of these payments were actually for both labor and materials, these distinctions were not detailed in the business records created at the time of service or payment.

17. Regardless, pursuant to rule 69L-6.035(i) and (j), the Auditor excluded the cost of materials from the payroll calculations. Specifically, she applied an "80:20" ration rule

for those payments Respondent claimed were partly labor and partly materials: considering 80 percent of the total payment as "labor" for penalty calculation purposes; and excluding 20 percent for penalty calculation purposes as "materials."

18. Using the gross payroll (Appx. A, column "c") and the appropriate NCCI manual rate (Appx. A, column "e"), the Auditor calculated the premium rate (Appx. A, column "f") for each individual or entity (Appx. A, column "Employer's Payroll"). She then multiplied the premium rate by two to reach a penalty amount (Appx. A, column "g"). This calculation method to determine a final penalty is authorized by section 440.107(7)(d)1., and rule 69L-6.027.

19. Ultimately, based on the amounts indicated in the worksheet, the Department issued a Third Amended OPA calculating the penalty as \$15,577.84.

20. The Department applied a 25 percent reduction, yielding a remaining penalty of \$11,683.38.

21. According to the evidence, in November 2016, Respondent paid \$1,000 to the Department as a "down payment" toward any ultimate assessment. Applying this \$1,000 as a credit to the penalty in the Third OPA results in Respondent owing \$10,683.38.

Respondent's Defenses.

22. At the final hearing, Mr. Reinartsen did not dispute any of the figures in the worksheet or the penalty amount.

Rather, he raised three arguments unrelated to ASAP Flooring's failure to secure workers' compensation insurance for its employees.

23. First, Respondent asserted Ms. Brigantty was not properly outfitted to enter a construction site and therefore, he argued, she was violating rules set forth by the Occupational Safety and Health Agency ("OSHA"). Ms. Brigantty admitted she was not wearing a hard hat, and did not think she was wearing steel-toed boots with hard soles when she entered the Jobsite.

24. Second, Respondent argued Ms. Brigantty did not issue a SWO to another contractor at a neighboring construction site who was putting in pavers, identified only as "Luis." Mr. Reinartsen could not provide the name of the other contractor's company, a last name, or any other identifying information; nor did Respondent provide evidence that "Luis" was in a similar situation: non-compliant with and non-exempt from chapter 440. Ms. Brigantty did not remember going to the neighboring site or speaking to anyone else during her stop at the Jobsite.

25. Finally, Respondent argued the penalty is substantial and payment in full (as opposed to a payment plan spread out over a number of years) would put him and his small family-owned company out of business.

Ultimate Findings.

26. The Department demonstrated, by clear and convincing evidence, Respondent violated chapter 440 as charged in the SWO by failing to secure workers' compensation coverage for its employees.

27. The Department demonstrated, by clear and convincing evidence, the penalty for this violation is \$11,683.38.

CONCLUSIONS OF LAW

28. DOAH has jurisdiction over the subject matter and parties of this proceeding pursuant to sections 120.569 and 120.57(1), Florida Statutes.

29. The Department seeks to penalize Respondent, and thus, has the burden of proof to show by clear and convincing evidence that Respondent (1) committed the violations alleged in the SWO, and (2) that the proper penalty was calculated and assessed in the Third Amended OPA. See Dep't of Banking & Fin. v. Osborne Stern & Co., 670 So. 2d 932, 935 (Fla. 1996); and Dep't of Fin. Serv. v. Doherty Home Repair, Inc., Case No. 17-3385, 2017 Fla. Div. Adm. Hear. LEXIS 770, *14-15 (Fla DOAH Dec. 27, 2017) (defining "clear and convincing" as where the evidence is 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.") (citations omitted).

30. Pursuant to sections 440.10, 440.107(2), and 440.38, every employer is required to secure the payment of workers' compensation by obtaining insurance coverage for workplace injuries. Employers in Florida must obtain workers' compensation insurance coverage for the benefit of their employees unless exempted or otherwise excluded under chapter 440.

31. "Employer" is defined in section 440.02(16) to include "every person carrying on any employment." In turn, section 440.02(23) defines "person" as an "individual, partnership, association, or corporation"; section 440.102(17)(a) defines "[e]mployment" as "any service performed by an employee for the person employing him or her." There is no question Respondent is a corporation performing services in the construction industry, and is an "employer" for the purposes of chapter 440 during the period from October 24, 2014, to October 24, 2016.

32. "Employee" is defined in section 440.102(15) to mean any person who receives remuneration from an employer for the performance of any work or service. There was no dispute at the hearing that the individuals and entities identified on the worksheet as being on ASAP Flooring's payroll were employees for the purposes of chapter 440.

33. The Department proved, by clear and convincing evidence, Respondent violated chapter 440 by failing to provide workers' compensation coverage for its employees.

34. Section 440.107(7)(d)1. establishes the method for calculating the penalty assessment against an employer who has failed to secure workers' compensation coverage in violation of this chapter. That statute states in relevant part:

In addition to any penalty, stop-work order, or injunction, the department shall assess against any employer who has failed to secure the payment of compensation as required by this chapter a penalty equal to 2 times the amount the employer would have paid in premium when applying approved manual rates to the employer's payroll during periods for which it failed to secure the payment of workers' compensation required by this chapter within the preceding 2-year period or \$1,000, whichever is greater.

a. For employers who have not been previously issued a stop-work order or order of penalty assessment, the department must allow the employer to receive a credit for the initial payment of the estimated annual workers' compensation policy premium, as determined by the carrier, to be applied to the penalty. Before applying the credit to the penalty, the employer must provide the department with documentation reflecting that the employer has secured the payment of compensation pursuant to s. 440.38 and proof of payment to the carrier. In order for the department to apply a credit for an employer that has secured workers' compensation for leased employees by entering into an employee leasing contract with a licensed employee leasing company, the employer must provide the department with a written confirmation, by a representative from the employee leasing company, of the dollar or percentage amount attributable to the initial estimated workers' compensation expense for leased employees, and proof of payment to the employee leasing company. The credit may not be applied unless the employer provides the

documentation and proof of payment to the department within 28 days after service of the stop-work order or first order of penalty assessment upon the employer.

b. For employers who have not been previously issued a stop-work order or order of penalty assessment, the department must reduce the final assessed penalty by 25 percent if the employer has complied with administrative rules adopted pursuant to subsection (5) and has provided such business records to the department within 10 business days after the employer's receipt of the written request to produce business records.

35. The Department proved by clear and convincing evidence it correctly applied the penalty computation method in determining the penalty applicable to Respondent for the portion of the look-back period in which Respondent was required to provide workers' compensation coverage but failed to do so. This amount is \$11,683.38.

36. The Department proved, by clear and convincing evidence, that \$10,683.38 (representing the remaining penalty in the amount of \$11,683.38, minus the \$1,000 penalty Respondent has already paid) is the correct amount Respondent owes the Department.

37. The violation and penalty having been proven, the burden shifts to Respondent to establish its defenses as to why it should not be penalized or, in the alternative, why it should receive a lesser penalty. Respondent argued at the hearing that it should not be penalized because the Department violated OSHA

standards by not having Ms. Brigantty dress appropriately for a construction site. The undersigned treats this argument as an affirmative defense that the penalty should be dismissed or reduced due to wrongdoing on the part of the Department. See Armstrong v. Ormond in the Pines, 734 So. 2d 596 (Fla. 1st DCA 1999) (noting "an exception to a statute must be proven by the one seeking to establish it" (citations omitted)). According to Respondent, OSHA regulations require employees on construction sites to wear a hard hat and closed-toed work boots. Even if it was true that Ms. Brigantty failed to wear this safety gear, DOAH does not have jurisdiction over OSHA enforcement. More importantly, state government entities -- such as the Department -- are not subject to OSHA regulations. 29 U.S.C.S. § 652(5) (defining "employer" as "a person engaged in a business affecting commerce who has employees, but does not include . . . any State or political subdivision of a State."). Regardless, the Department's safety failures do not excuse Respondent's non-compliance with chapter 440.

38. The second defense asserted by Respondent at the hearing was that Ms. Brigantty could have issued a SWO to another employer in the vicinity, but did not. The undersigned treats this as an affirmative defense that the Department was selectively enforcing the workers' compensation compliance requirements, and therefore was acting arbitrarily. See Dep't of

Bus. & Prof'l Reg. v. Aleong, Case No. 10-2388PL, 2010 Fla. Div. Adm. Hear. LEXIS 1005, *18 (Fla. DOAH Dec. 29, 2010; Fla. DBPR July 7, 2011) ("An allegation that a governmental agency is acting selectively or arbitrarily in taking enforcement action states a valid affirmative defense in the administrative context.").

39. To establish "selective enforcement" as a defense to Petitioner's actions, Respondent has the burden of proving the facts supporting the defense; it must prove the Department not only failed to enforce the law against other offenders that were similarly situated, but also that the difference in treatment was motivated by an unjustifiable standard such as race, gender or other arbitrary classification. See State v. A.R.S., 684 So. 2d 1383, 1385 (Fla. 1st DCA 1996) ("Petitioner is required to show both that the passive enforcement system had a discriminatory effect and that it was motivated by a discriminatory purpose." (citation omitted)); Dep't of Bus. & Prof'l Reg. v. Aleong, Case No. 06-2717, RO at 9-11 (Fla. DOAH Jan. 5, 2007; Fla. DBPR Mar. 19, 2007) (rejecting selective enforcement defense where "the evidence did not prove that there were other similarly situated veterinarians who were not prosecuted").

40. Respondent's affirmative defense of selective enforcement is rejected. Respondent provided no evidence that "Luis" was similarly situated (i.e., he was also an employer who had no workers' compensation insurance for his employees and was

not exempt). There was also no testimony that Ms. Brigantty failed to issue a SWO based on any improper motive. Respondent has not met its burden of proof, as there was no evidence offered that it was arbitrarily treated differently than other similarly situated employers.

41. Finally, Mr. Reinartsen asked for leniency, arguing the Department's penalty demand and SWO has and will continue to cause a significant hardship to him personally and to ASAP Flooring. He admitted at the hearing he was uninformed about the workers' compensation rules and acknowledged he should have been more diligent in getting proof from his subcontractors that they were compliant with the requirements of chapter 440. Mr. Reinartsen cooperated with the Department and even assisted it by correcting erroneous names of potential employees. Ultimately, at the hearing Respondent took responsibility; it conceded the employee status, characterization of work performed, and dates put forth by the Department at the hearing.

42. Chapter 440, however, does not provide mitigating circumstances to reduce penalties; nor does it excuse non-compliance because of ignorance of the statutory requirements, and/or workers' compensation status of workers and subcontractors. Nonetheless, the administrative rules allow the Department to enter into a Payment Agreement Schedule to pay off penalties incurred by those who have violated chapter 440.

See Fla. Admin. Code R. 69L-6.025. Under this rule an employer pays ten percent of the total penalty or \$1,000.00, whichever is greater, as a down payment and thereafter pays off the penalty pursuant to an installment schedule. Here, Respondent has already paid the \$1,000 and is willing to pay the remainder of the penalty in increments of around \$100.00 a month until paid off. The undersigned strongly recommends the Department facilitate a payment agreement schedule with ASAP Flooring to enable it to pay off the penalty over a period time given the following factors: (1) Respondent is a small business with no previous non-compliance history; (2) Mr. Reinartsen fully cooperated with the Department; (3) some of Respondent's non-compliance was based on the representations of other businesses Mr. Reinartsen believed had sufficient workers' compensation coverage; (4) Respondent took steps to comply with the law by obtaining workers' compensation coverage; and (5) the assessed penalty will result in a substantial hardship on Respondent.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that:

The Department of Financial Services, Division of Workers' Compensation, enter a final order determining that Respondent, ASAP Flooring, violated the requirement in chapter 440 to secure workers' compensation coverage and imposing a total penalty of

\$11,683.38, less the \$1,000 down payment, the balance to be paid in \$100 a month increments.

DONE AND ENTERED this 12th day of February, 2018, in Tallahassee, Leon County, Florida.



HETAL DESAI
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 12th day of February, 2018.

ENDNOTES

^{1/} All references to statutes, regulations and rules are to the 2016 versions in effect during the initial issuance of the Stop-Work Order.

^{2/} Although the record does not establish the date or amount of the original OPA, the Department served the first Amended OPA for \$23,114.02 on March 2, 2017. A subsequent amended OPA was served on Respondent on October 27, 2017, in the amount of \$13,671.33; this Second OPA was attached to the Request for Administrative Hearing forwarded to DOAH on that same date.

^{3/} The parties had entered into an Agreed Order of Conditional Release from Stop-Work Order on November 4, 2016. In that Agreed Order, the Department lifted the SWO (thereby allowing ASAP Flooring to provide services), because ASAP Flooring had obtained proper workers' compensation coverage and had paid \$1,000 toward any ultimate penalty. Respondent also agreed to make periodic payments. The Department later reinstated the SWO, because Respondent failed to enter into a "Payment Agreement Schedule for

Periodic Payment of Penalty with the Department" and failed to make a payment toward the penalty assessment within 28 days. As of the final hearing date, the SWO was still in effect.

^{4/} Although during the investigative process Mr. Reinartsen challenged the Department's identification of some of the individuals as Respondent's "employees" and asserted these individuals were actually employees of subcontractors, he later learned ASAP Flooring was responsible for providing workers' compensation insurance to these workers from other subcontractors because they were not covered, as he was led to believe. See Florida Administrative Code Rule 69L-6.032(6), which states in relevant part:

If a contractor fails to obtain evidence of workers' compensation insurance or evidence of a valid Certificate of Election to Be Exempt as required herein and the subcontractor has failed to secure the payment of compensation pursuant to Chapter 440, F.S., **the contractor shall be liable for, and shall secure the payment of compensation for all the employees of the subcontractor pursuant to Section 440.10(1)(b), F.S.**, and if the contractor has failed to secure the payment of compensation pursuant to Chapter 440, F.S., the contractor will be issued a Stop-Work Order and a penalty will be assessed against the contractor pursuant to Section 440.107(7)(d)1., F.S. (Emphasis added).

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.

State of Florida, Department of Financial Services
 Division of Workers' Compensation, Bureau of Compliance
 Penalty Calculation Worksheet
 3rd Amended Order Of Penalty Assessment

QW BUSINESS NAME: A.S.A.P. FLOORING, INC.

DWC Case No. 16-423-03
 TOTAL PENALTY: \$ 11,683.38

Part 1. Penalty for failure to obtain coverage that meets the requirements of Chapter 440, F.S. and the Insurance Code.

Employer's Payroll	Calculation Methodology	(a) Class Code	(b) Period of Non-Compliance	(c) Gross Payroll	(d) Column (c) /100	(e) Approved Manual Rate	(f) Premium (d) x (e)	(g) Penalty** (f) x 2
JOHNY INOCENTE	Records	5445	10/25/2014	\$1,624.00	16.24	8.00	\$129.92	\$259.84
DANIEL LAPORTA	Records	5478	10/25/2014	\$6,384.25	63.84	5.51	\$351.77	\$703.54
FLAWLESS FLOORING INSTALLATIONS LLC /WATSON PUENTE	Records	5478	10/25/2014	\$295.00	2.95	5.51	\$16.25	\$32.50
RICHEE GS FLOORING	Records	5478	10/25/2014	\$1,620.80	16.21	5.51	\$89.31	\$178.62
WALLACE HUMBERT	Records	5478	10/25/2014	\$1,205.00	12.65	5.51	\$69.70	\$139.40
ABRAHAM LOPEZ	Records	5348	1/1/2015	\$2,628.00	26.28	6.28	\$165.04	\$330.08
DAVID WALKUP	Records	5437	1/1/2015	\$925.00	9.25	8.44	\$78.07	\$156.14
JOHNY INOCENTE	Records	5445	1/1/2015	\$9,020.00	90.20	7.64	\$689.13	\$1,378.26
COSTAR CORP / COSTAR PAINTING / RONALD SANCHEZ	Records	5474	1/31/2015	\$3,080.00	30.80	11.05	\$340.34	\$680.68
ALEX SAXE	Records	5478	1/1/2015	\$180.00	1.80	5.19	\$9.34	\$18.68
ANTHONY DIXON	Records	5478	1/1/2015	\$300.00	3.00	5.19	\$15.57	\$31.14
DANIEL LAPORTA	Records	5478	1/1/2015	\$25,813.05	258.13	5.19	\$1,339.70	\$2,679.40
DARREN GIDNEY	Records	5478	1/1/2015	\$2,205.00	22.05	5.19	\$114.44	\$228.88
ERIC MICHAUD / EXCEPTIONAL FLOORS AND HOME DESIGN, INC.	Records	5478	1/1/2015	\$300.00	3.00	5.19	\$15.57	\$31.14
JAMES ANDERSON	Records	5478	1/1/2015	\$250.00	2.50	5.19	\$12.98	\$25.96
RICHARD PENDOLA	Records	5478	1/1/2015	\$1,035.00	10.35	5.19	\$53.72	\$107.44
WALLACE HUMBERT	Records	5478	1/1/2015	\$14,871.50	148.72	5.19	\$771.83	\$1,543.66
WILLIAM JACKSON	Records	5478	1/1/2015	\$575.00	5.75	5.19	\$29.84	\$59.68

* If the employer has failed to provide business records sufficient to enable the Department to determine the employer's payroll, payroll shall be imputed to be the statewide average weekly wage as defined in § 440.12(2) Florida Statutes, multiplied by 1.5, (§ 440.107(7)(e), Florida Statutes).

** Premium multiplied by statutory factor of 2§ 440.107(7)(d)(1), Florida Statutes

State of Florida, Department of Financial Services
 Division of Workers' Compensation, Bureau of Compliance
 Penalty Calculation Worksheet
 3rd Amended Order Of Penalty Assessment

ge30f3

W BUSINESS NAME: A.S.A.P. FLOORING, INC.

DWC Case No. 16-423-03
 TOTAL PENALTY: \$ 11,683.38

Part 1. Penalty for failure to obtain coverage that meets the requirements of Chapter 440, F.S. and the Insurance Code.

Employer's Payroll	Calculation Methodology	Class Code (a)	Period of Non-Compliance (b)	Gross Payroll (c)	Column (c) /100 (d)	Approved Manual Rate (e)	Premium (d) x (e) (f)	Penalty** (f) x 2 (g)
WALLACE HUMBERT	Records	5478	11112016 - 1011512016	\$31,038.00	310.38	5.13	\$1,592.25	\$3,184.50
81TREES, LLC / JOHN C HUTCHESON	Records	42	11112016 - 1012412016	\$925.00	9.25	8.58	\$79.37	\$158.74
RICKS POOL REMODELING INC.	Records	5223	11112016 - 1012412016	\$3,260.00	32.60	6.63	\$216.14	\$432.28
ABRAHAM LOPEZ	Records	5348	11112016 - 1012412016	\$3,472.00	34.72	6.11	\$212.14	\$424.28
ROJAS GRANITE INC. / FEIN# 90-0269674	Records	5348	21112016 - 1012412016	\$8,936.00	89.36	6.11	\$545.99	\$1,091.98
MODERN BATH & TILES, INC. / JORGE L ORTA-SERRANO	Records	5348	11112016 - 1012412016	\$9,604.00	96.04	6.11	\$586.80	\$1,173.60
DAVID WALKUP	Records	5437	11112016 - 1012412016	\$350.00	3.50	8.92	\$31.22	\$62.44
JOHNY INOCENTE	Records	5445	11112016 - 1012412016	\$2,400.00	24.00	7.49	\$179.76	\$359.52
ALEX SAXE	Records	5478	11112016 - 1012412016	\$340.00	3.40	5.13	\$17.44	\$34.88
GORDON ORMOND FLOORING	Records	5478	11112016 - 1012412016	\$208.00	2.08	5.13	\$10.67	\$21.34
JASON BRADENSTEIN	Records	5478	11112016 - 1012412016	\$380.00	3.80	5.13	\$19.49	\$38.98
WALLACE HUMBERT	Records	5478	1012412016 - 1012412016	\$100.00	1.00	5.13	\$5.13	\$10.26
Par 1 Penalty Sub-Totals:***				\$133,394.60			\$7,788.92	\$15,577.84

* If the employer has failed to provide business records sufficient to enable the Department to determine the employer's payroll, payroll shall be imputed to be the statewide average weekly wage as defined in §440.12(2) Florida Statutes, multiplied by 1.5, (§ 440.107(7)(e), Florida Statutes).

** Premium multiplied by statutory factor of 2 § 440.107(7)(d)(1), Florida Statutes