

FILED

JUN 21 2018

Docketed by VA



CHIEF FINANCIAL OFFICER
JIMMY PATRONIS
STATE OF FLORIDA

DEPARTMENT OF FINANCIAL
SERVICES, DIVISION OF WORKERS'
COMPENSATION,

Petitioner,

v.

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

Respondent.

DOAH CASE NO.: 17-5900
DFS CASE NO.: 16-423-D3-WC

FINAL ORDER

THIS CAUSE came on for consideration of and for final agency action on a Recommended Order ("RO"). Petitioner timely filed an exception to the RO. Respondent filed a response to the exception.

RULING ON PETITIONER'S EXCEPTION

Petitioner's exception addresses the RO's recommended schedule of payments for paying the penalty assessment. The RO recommends the Department schedule a payment of \$100.00 per month. Petitioner asserts a payment of \$100.00 per month would not comply with Rule 69L-6.025(2)(b)1., *Florida Administrative Code*, because the rule sets a maximum repayment period of sixty consecutive months.

Respondent's response to the exception asks the Department to consider a monthly payment of \$150.00 or less; however, Respondent concedes payment of the penalty at the rate of \$150.00 per month will preclude payment in full within the time period prescribed by the rule.

An agency must adhere to its rules. Atlantis at Perdido Ass'n, Inc. v. Warner, 932 So. 2d 1206 (Fla. 1st DCA 2006); Vantage Healthcare Corp. v Agency for Health Care Admin., 687 So. 2d 306 (Fla. 1st DCA 1997).

Therefore, the exception is granted, and the portion of the RO's penalty recommendation regarding a payment of \$100.00 per month is rejected.

After reviewing the record, including all testimony and admitted exhibits, considering applicable law, and otherwise being fully apprised in all material premises, except as modified above, the Recommended Order is hereby adopted.

Accordingly, A.S.A.P. Flooring, Inc., is assessed a penalty of \$11,683.38. Within 30 days from the date of this Final Order, Respondent must pay the penalty in full, less any payments made to date, or execute a payment agreement with the Department of Financial Services to pay the penalty by installments.

DONE and ORDERED this 21ST day of JUNE, 2018.



Charity H. O'Steen for
Ryan West
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:

A.S.A.P. Flooring, Inc., Respondent
c/o Eric Reinartsen (President)
215 Mason Street
Brandon, Florida 33511

Jonathan Martin
Senior Attorney
Department of Financial Services
200 East Gaines Street
Tallahassee, Florida 32399-0333