

FILED

AUG 09 2018

Chief Financial Officer

Docketed by:



CHIEF FINANCIAL OFFICER  
JIMMY PATRONIS  
STATE OF FLORIDA

DEPARTMENT OF FINANCIAL  
SERVICES, DIVISION OF WORKERS'  
COMPENSATION,

Petitioner,

v.

DONALD STEVEN PAUL d/b/a D.P.  
PAINTING OF LAKE LAND,

Respondent.

DOAH CASE NO.: 17-6823  
DFS CASE NO.: 17-329-D3-WC

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FINAL ORDER

THIS CAUSE came on for consideration of and for final agency action on a Recommended Order.

After reviewing the record, including all testimony and admitted exhibits, considering applicable law, and otherwise being fully apprised in all material premises, the Recommended Order is hereby adopted, except as modified below and to correct scrivener's errors.<sup>1</sup>

Findings of Fact paragraph 6 is modified by deleting the reference to formation of a corporation because the finding is not supported by competent substantial evidence. Mr. Paul testified he "opened a business," but he did not use the word "incorporation" or any related terms. Further, the Division of Corporations records (Petitioner's Exhibit 1)

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<sup>1</sup> Preliminary Statement paragraph 2 is modified by replacing the word "issued" with "served upon". Findings of Fact paragraph 2 is modified by replacing "September" with "August".

confirm Respondent did not form a corporation, but merely registered a fictitious name as required by section 865.09, Florida Statutes.<sup>2</sup>

Conclusions of Law paragraph 21 is modified by deleting both case citations.<sup>3</sup>


Conclusions of Law paragraph 23 is modified by deleting “incorporating” and replacing it with “registering Respondent as a d/b/a” for the reasons stated above regarding the modification to Findings of Fact paragraph 6.

The modified conclusions of law are as or more reasonable than the conclusions they replace.

Accordingly, Donald Steven Paul d/b/a D. P. Painting of Lakeland is assessed a penalty of \$2,090.14. 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 9<sup>th</sup> day of August, 2018.



  
Ryan West  
Chief of Staff

<sup>2</sup> In pertinent part, the statute states: “A person may not engage in business under a fictitious name unless the person first registers the name with the division.”

<sup>3</sup> Paragraph 21 cites Summit Claims Mgmt. v. Lawyers Express Trucking, Inc., 913 So. 2d 1182, 1185 (Fla. 4th DCA 2005) and C&L Trucking v. Corbitt, 546 So. 2d 1185, 1186 (Fla. 5th DCA 1989), in support of the conclusion: “As an ‘employer,’ pursuant to sections 440.10 and 440.38, it was required to secure workers compensation for the benefit of its employees unless exempted or excluded under chapter 440.” However, the two cases address whether a workers’ compensation carrier properly perfected its subrogation lien under section 440.39, Florida Statutes, not the duties of an employer vis a vis its employees; thus, the cases are inapposite.

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](mailto:Julie.Jones@myfloridacfo.com).

Copies furnished to:

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**MAILED**

8.9.18

*J. Johnson*