

FILED

OCT 17 2019

Chief Financial Officer

Docketed by: *J. Johnson*



CHIEF FINANCIAL OFFICER
JIMMY PATRONIS
STATE OF FLORIDA

DEPARTMENT OF FINANCIAL
SERVICES, DIVISION OF WORKERS'
COMPENSATION,

Petitioner,

v.

NATIVE CUTS PROPERTY
MANAGEMENT LLC,

Respondent.

DOAH CASE NO.: 18-5810
DFS CASE NO.: 17-246-D4-WC

2019 OCT 18 AM 11:57
DIVISION OF
ADMINISTRATIVE HEARINGS

FILED

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 with the following modifications.

1. The name "Native Cuts Property Management, LLC" is replaced throughout with "Native Cuts Property Management LLC".¹ Inclusion of a comma before "LLC" is not supported by competent, substantial evidence.
2. Conclusions of Law paragraph 56 is not adopted. The Amended Order of

¹ There is no comma before "LLC" in the Division of Corporations' records for this entity. See Petitioner's Exhibit 1.

Penalty Assessment imposes a total penalty of \$69,534.34.² The Recommended Order concludes that the amount of penalty to be assessed is \$68,514.74. It reaches this figure by deducting the \$1,000.00 downpayment (remitted on July 31, 2017) from the adjusted total penalty of \$69,514.74.³ This approach confuses proper credits against a penalty amount with the proper calculation of that penalty. As stated in the Recommended Order's Statement of the Issue, at issue in this matter is "whether Petitioner correctly calculated the proposed penalty assessment" set forth in the Amended Order of Penalty Assessment, not the balance due after applying credits. The rejection of this paragraph is as or more reasonable than the original.

3. For the reasons stated above in rejecting paragraph 56, the recommendation that the Department issue a Final Order assessing a penalty in the amount of \$68,514.74 is rejected.

Accordingly, Native Cuts Property Management LLC is assessed a penalty of \$69,514.74.

DONE and ORDERED this 17th day of October, 2019.




Ryan West
Chief of Staff

² See Petitioner's Exhibit 6.

³ The Recommended Order also adjusts the total penalty from \$69,534.34 to \$69,514.74 by deducting the portion of the penalty (\$19.60) attributable to Virginia Brown. See Findings of Fact paragraphs 30, 31, 32, and 36, and Conclusions of Law paragraph 52. That adjustment is not altered by this Final Order.

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.

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MAILED

10.17.19

J. Johnson