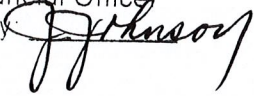


FILED

JUN 07 2021

Chief Financial Officer  
Docketed by



CHIEF FINANCIAL OFFICER  
**JIMMY PATRONIS**  
STATE OF FLORIDA

2021 JUN -9 AM 11:15  
DIVISION OF  
ADMINISTRATIVE HEARINGS

FILED

DEPARTMENT OF FINANCIAL  
SERVICES, DIVISION OF WORKERS'  
COMPENSATION,

DOAH CASE NO.: 20-4535  
DFS CASE NO.: 16-296-1A-WC

Petitioner,

v.

DAVID COOPER'S CONSTRUCTION, INC.,

Respondent.

FINAL ORDER

THIS CAUSE came before the DEPARTMENT OF FINANCIAL SERVICES ("the Department") pursuant to Sections 120.569 and 120.57(1), Florida Statutes, for consideration of the Administrative Law Judge's Recommended Order and Petitioner's Exception to the Recommended Order in the above-styled case.

Upon review of the Recommended Order, the argument of the parties, and after a review of the complete record in this case, the Department makes the following findings and conclusions.

RULING ON PETITIONER'S EXCEPTION

1. Exceptions to a recommended order are authorized by section 120.57(1)(k), Florida Statutes (2018), and Rule 28-106.217, Florida Administrative Code. The department may reject or modify an ALJ's findings of fact where the department

makes a determination, from a review of the entire record, that the finding of fact was not based upon competent substantial evidence.

2. Petitioner filed an exception to the ALJ's finding of fact in paragraph 14 of the Recommended Order. Finding of fact 14 states:

Ms. Murcia began by reviewing Respondent's business records for the audit period, which is the two-year period immediately preceding the date of the SWO. *See* § 440.107(7)(d), Fla. Stat. The audit period in this case is from February 1, 2015, through January 31, 2017.

3. Petitioner asserts that the dates describing the audit period in the second sentence of paragraph 14 are erroneous. Petitioner is correct. The finding of fact that the audit period in this case is from February 1, 2015, through January 31, 2017, is rejected as the finding is not based on competent substantial evidence found in the record of the proceedings.

4. Petitioner asserts that the audit period is from August 13, 2014, through August 12, 2016. The hearing transcript contains testimony from a Department compliance investigator that the Stop-Work order was issued on August 12, 2016, and that the audit period was two years preceding the date of the Stop-Work order. The Stop-Work order and the Business Records Request identifying the audit period as August 13, 2014, to August 12, 2016, were entered into evidence. There is no evidence in the record contrary to Petitioner's exception.

5. For the foregoing reasons, the exception is granted. Therefore, paragraph 14 of the Recommended Order is modified to read:

Ms. Murcia began by reviewing Respondent's business records for the audit period, which is the two-year period immediately preceding the date of the SWO. *See* §

440.107(7)(d), Fla. Stat. The audit period in this case is from August 13, 2014, through August 12, 2016.

FINDINGS OF FACT

1. The findings of fact set forth in the Recommended Order, as modified, are approved and adopted and incorporated herein by reference.

CONCLUSIONS OF LAW

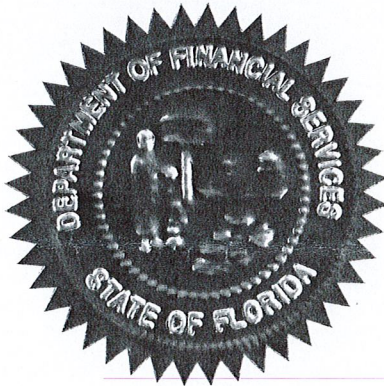
1. The Department has jurisdiction of this matter pursuant to Section 120.57(1), Florida Statutes, and Chapter 440, Florida Statutes.
2. The conclusions of law set forth in the Recommended Order are approved and adopted and incorporated herein by reference.

PENALTY

WHEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

David Cooper's Construction, Inc., is assessed a penalty of \$3,795.00.

DONE and ORDERED this 4 day of June, 2021.



Julie Jones  
Julie Jones  
Deputy Chief Financial Officer

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 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 [DFSAgencyClerk@myfloridacfo.com](mailto:DFSAgencyClerk@myfloridacfo.com).

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Hon. Suzanne Van Wyk  
Administrative Law Judge  
Division of Administrative Hearings  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060



**MAILED**

06.07.2021