

**STATE OF FLORIDA  
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES**

DEPARTMENT OF HIGHWAY SAFETY  
AND MOTOR VEHICLES,

Petitioner,

vs.

HSMV Case No.: MS-21-024

PEROTTE DRIVING AND TRAFFIC  
SCHOOL, INC,

DOAH Case No.: 21-0905

Respondent.

**FINAL ORDER NO. : FLHSMV 2021**

**HSMV-21-0307-FOF-MS**

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

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**FINAL ORDER**

This matter comes before the Department of Highway Safety and Motor Vehicles for entry of a final order upon submission of the Recommended Order on October 22, 2021, by Administrative Law Judge Brittany O. Finkbeiner of the State of Florida, Division of Administrative Hearings. A copy of the Recommended Order is attached and incorporated by reference herein. The Department hereby adopts the Recommended Order as its final order in this matter. Attached as an appendix to this final order are the Department’s rulings on exceptions filed by Respondent.

On May 23, 2019, Respondent entered into a knowledge examination contract (contract) with the Department to perform knowledge examinations on the Department’s behalf. On March 12, 2020, Respondent signed an addendum to the contract.

Judge Finkbeiner stated that Respondent violated Section VIII, paragraph A., 2. and Section III, paragraph G., 2. and 4. of the contract. She further stated that termination of the contract is within the Department’s discretion pursuant to § 322.56(3)(f), Fla. Stat., according to the terms of the contract itself. The statutory and contract provisions state the following:

**Section 322.56(3)(f), Fla. Stat.:**

322.56 Contracts for administration of driver license examination.—

(3) The contract or agreement between the third-party administrator and the state must, at a minimum, contain provisions that:

(f) Reserve to the department the right to take prompt and appropriate action against a third party that fails to comply with state or federal standards for a driver license examination or that fails to comply with any terms of the contract.

**Section VIII, paragraph A., 2. of the contract:**

SECTION VIII: TERMINATION AND REAPPLICATION

A. The Department reserves the right to terminate this agreement upon determining the Third Party Administrator or Third Party Examiner in the employ of a Third Party Administrator fails to comply with the terms of this contract, including:

2. Administering Class E Knowledge Exams honestly and without false statement, without obtaining or assisting a person in obtaining any driver license through fraudulent means or by misrepresentation, to include falsification of course completions that are required to obtain or reinstate driver license privilege.

**Section III, paragraph G., 2. and 4. of the contract:**

SECTION III. CLASS E KNOWLEDGE EXAMINATION

G. PROCTORED CLASS E KNOWLEDGE EXAMS:

2. The Third Party Administrator must ensure that the examination area is free from distractions or interference that would affect the examining ability of any applicant.

4. The Third Party Administrator must ensure that only the actual examining applicants are allowed in the examination area.

Respondent violated Section VIII, paragraph A., 2. of the contract by entering into its computer system that an applicant completed the Traffic Law Substance Abuse Education (TLSAE) course when Respondent knew that she did not do so. Respondent violated Section III, paragraph G., 2. and 4. of the contract by allowing an individual to be in the examination room while applicants were taking the Class E knowledge examination. As a result of these violations, it is **ORDERED AND ADJUDGED** that Respondent's knowledge examination contract with the Department is **TERMINATED**. Accordingly, the case is **CLOSED**.

**DONE AND ORDERED** this 12th day of November, 2021, at Tallahassee, Leon County, Florida.

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MS-21-024



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Robert Kynoch, Director of Motorist Services  
Department of Highway Safety and Motor Vehicles  
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**COPIES FURNISHED** this 12th day of November, 2021, to:

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### **NOTICE OF APPEAL RIGHTS**

A party adversely affected by this final order may seek judicial review as provided in § 120.68, Fla. Stat., and Fla. R. App. P. 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 Fla. R. App. P. 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 by U.S. mail, express overnight delivery, hand delivery, facsimile transmission, or electronic mail. The address for overnight delivery or hand delivery is Joseph Gillespie, DHSMV Agency Clerk, Department of Highway Safety and Motor Vehicles, 2900 Apalachee Parkway, A-432, MS-2, Tallahassee, Florida 32399. The facsimile number is (850) 617-5112. The email address is [OGCFiling@flhsmv.gov](mailto:OGCFiling@flhsmv.gov).

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**APPENDIX TO FINAL ORDER:  
RULINGS ON RESPONDENT'S EXCEPTIONS**

On November 2, 2021, Respondent filed exceptions to the Recommended Order. Exceptions must identify the disputed portion of the recommended order by page number or paragraph, shall identify the legal basis for the exception, and shall include any appropriate and specific citations to the record. § 120.57(1)(k), Fla. Stat.; Fla. Admin. Code R. 28-106.217. Upon review of the Recommended Order, Respondent's exceptions, and the record in the above-styled cause, the Department makes the following rulings on the exceptions:

1. Respondent's first exception is **REJECTED AND DENIED**. The exception fails to identify a specific disputed portion of the Recommended Order by page number or paragraph.

2. Respondent's second exception is **REJECTED AND DENIED**. The exception fails to identify a specific disputed portion of the Recommended Order by page number or paragraph.

3. Respondent's third exception is **REJECTED AND DENIED**. The Administrative Law Judge's finding of fact in paragraph 7. and conclusion of law in paragraph 28. of the Recommended Order are supported by competent substantial evidence in the record.

4. Respondent's fourth exception is **REJECTED AND DENIED**. The exception fails to identify a specific disputed portion of the Recommended Order by page number or paragraph.

5. Respondent's fifth exception is **REJECTED AND DENIED**. The Administrative Law Judge's finding of fact in paragraph 7. of the Recommended Order is supported by competent substantial evidence based on the documents entered into evidence and the testimony of Wilner Perotte.

6. Respondent's sixth exception is **REJECTED AND DENIED**. The exception fails to identify a specific disputed portion of the Recommended Order by page number or paragraph.

7. Respondent's seventh exception is **REJECTED AND DENIED**. The exception fails to identify a specific disputed portion of the Recommended Order by page number or paragraph.

8. Respondent's eighth exception is **REJECTED AND DENIED**. The exception fails to identify a specific disputed portion of the Recommended Order by page number or paragraph.

9. Respondent's ninth exception is **REJECTED AND DENIED**. The exception fails to identify a specific disputed portion of the Recommended Order by page number or paragraph.

10. Respondent's tenth exception is **REJECTED AND DENIED**. The exception fails to identify a specific disputed portion of the Recommended Order by page number or paragraph.

11. Respondent's eleventh exception is **REJECTED AND DENIED**. The exception fails to identify a specific disputed portion of the Recommended Order by page number or paragraph.

12. Respondent's twelfth exception is **REJECTED AND DENIED**. The exception fails to identify a specific disputed portion of the Recommended Order by page number or paragraph. Further, the exception addresses matters which Respondent states took place after the filing of the Recommended Order.

13. Respondent's thirteenth exception is **REJECTED AND DENIED**. The exception fails to identify a specific disputed portion of the Recommended Order by page number or paragraph. Further, the exception addresses matters which Respondent states took place after the filing of the Recommended Order.

14. Respondent's fourteenth exception is **REJECTED AND DENIED**. The exception fails to identify a specific disputed portion of the Recommended Order by page number or paragraph.

15. Respondent's fifteenth exception is **REJECTED AND DENIED**. The exception fails to identify a specific disputed portion of the Recommended Order by page number or paragraph.

16. Respondent's sixteenth exception is **REJECTED AND DENIED**. The exception addresses matters outside of the Recommended Order.