

**AGENCY FOR WORKFORCE INNOVATION  
TALLAHASSEE, FLORIDA**

**PETITIONER:**

Employer Account No. - 2980109  
PURA VIDA ADVENTURES INC  
2513 BEACH CT  
SINGER ISLAND FL 33404-4724

**RESPONDENT:**

State of Florida  
Agency for Workforce Innovation  
c/o Department of Revenue

**PROTEST OF LIABILITY  
DOCKET NO. 2010-146116L**

**ORDER**

This matter comes before me for final Agency Order.

Having fully considered the Special Deputy's Recommended Order and the record of the case and in the absence of any exceptions to the Recommended Order, I adopt the Findings of Fact and Conclusions of Law as set forth therein. A copy of the Recommended Order is attached and incorporated in this Final Order.

In consideration thereof, it is ORDERED that the determination dated August 31, 2010, is AFFIRMED.

DONE and ORDERED at Tallahassee, Florida, this \_\_\_\_\_ day of **June, 2011**.



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TOM CLENDENNING  
Assistant Director  
AGENCY FOR WORKFORCE INNOVATION

**AGENCY FOR WORKFORCE INNOVATION  
Unemployment Compensation Appeals**

MSC 345 CALDWELL BUILDING  
107 EAST MADISON STREET  
TALLAHASSEE FL 32399-4143

**PETITIONER:**

Employer Account No. - 2980109  
PURA VIDA ADVENTURES INC  
ATTN: DEAN SHULER  
2513 BEACH CT  
SINGER ISLAND FL 33404-4724



**PROTEST OF LIABILITY  
DOCKET NO. 2010-146116L**

**RESPONDENT:**

State of Florida  
Agency for Workforce Innovation  
c/o Department of Revenue

**RECOMMENDED ORDER OF SPECIAL DEPUTY**

TO: Assistant Director  
Agency for Workforce Innovation

This matter comes before the undersigned Special Deputy pursuant to the Petitioner's protest of the Respondent's determination dated August 31, 2010.

After due notice to the parties, a telephone hearing was held on March 3, 2011. The Petitioner's owner/president appeared and testified at the hearing. The Joined Party appeared and testified in his own behalf. A tax specialist II appeared and testified on behalf of the Respondent.

The record of the case, including the recording of the hearing and any exhibits submitted in evidence, is herewith transmitted. Proposed Findings of Fact and Conclusions of Law were not received.

**Issue:**

Whether services performed for the Petitioner by the Joined Party constitute insured employment, and if so, the effective date of liability, pursuant to Section 443.036(19), 443.036(21); 443.1216, Florida Statutes.

Whether the Petitioner meets liability requirements for Florida unemployment compensation contributions, and if so, the effective date of liability, pursuant to Sections 443.036(19); 443.036(21), Florida Statutes.

Whether the Petitioner's corporate officers received remuneration for employment which constitutes wages, pursuant to Sections 443.036(21), (44), Florida Statutes; Rule 60BB-2.025, Florida Administrative Code.

**Findings of Fact:**

1. The Petitioner is a subchapter S corporation, incorporated in April 2002, for the purpose of running a dive charter business. The Petitioner has two corporate officers that do not receive remuneration for services performed for the business.
2. The Petitioner is located and registered in the State of Florida.
3. The Petitioner owns boats which are used to take customers to dive sites. The Petitioner performs all maintenance and covers all expenses incurred for the boats.
4. The Joined Party performed services for the Petitioner as a licensed boat captain from June 2007, through June 15, 2010.
5. The Petitioner’s boats operate within United States waters.
6. The Petitioner would offer work to the Joined Party when work was available. The duration of the trips was generally four hours. The Petitioner arranged and scheduled the trips.

**Conclusions of Law:**

7. Florida Statute 443.1216(11) states, “The employment subject to this chapter includes all service performed by an officer or member of a crew of an American vessel or American aircraft on, or in connection with, the vessel or aircraft, if the operating office from which the operations of the vessel or aircraft operating inside or both inside and outside the United States is ordinarily and regularly supervised, managed, directed, and controlled within this state.”
8. The Petitioner is located and operates within the State of Florida.
9. The Joined Party served as captain of the Petitioner’s vessel.
10. The Petitioner directs and manages the operations of the vessels by contracting and scheduling trips as well as by maintaining the vessels.
11. The service provided by the Joined Party for the Petitioner as a boat captain is covered employment under Florida Statute 443.1216(11). Therefore, by law there existed an employer-employee relationship between the parties.
12. The Petitioner’s corporate officers did not receive any remuneration for services provided for the corporation.

**Recommendation:** It is recommended that the determination dated August 31, 2010, be AFFIRMED.

Respectfully submitted on May 2, 2011.



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KRIS LONKANI, Special Deputy  
Office of Appeals