

**DEPARTMENT OF ECONOMIC OPPORTUNITY
Reemployment Assistance Appeals
PO BOX 5250
TALLAHASSEE FL 32399-5250**

PETITIONER:

Employer Account No. – 3195456
ABACO JET SERVICES LLC
C/O MIKE MELDEAU
2600 DELMAR PL
FORT LAUDERDALE FL 33301-1576

**PROTEST OF LIABILITY
DOCKET NO. 0022 1296 67-02**

RESPONDENT:

State of Florida
DEPARTMENT OF ECONOMIC
OPPORTUNITY
c/o Department of Revenue

ORDER

This matter comes before me for final Department 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 February 6, 2014, is REVERSED.

JUDICIAL REVIEW

Any request for judicial review must be initiated within 30 days of the date the Order was filed. Judicial review is commenced by filing one copy of a *Notice of Appeal* with the DEPARTMENT OF ECONOMIC OPPORTUNITY at the address shown at the top of this Order and a second copy, with filing fees prescribed by law, with the appropriate District Court of Appeal. It is the responsibility of the party appealing to the Court to prepare a transcript of the record. If no court reporter was at the hearing, the transcript must be prepared from a copy of the Special Deputy's hearing recording, which may be requested from the Office of Appeals.

Cualquier solicitud para revisión judicial debe ser iniciada dentro de los 30 días a partir de la fecha en que la Orden fue registrada. La revisión judicial se comienza al registrar una copia de un *Aviso de Apelación* con la Agencia para la Innovación de la Fuerza Laboral [*DEPARTMENT OF ECONOMIC OPPORTUNITY*] en la dirección que aparece en la parte superior de este *Orden* y una segunda copia, con los honorarios de registro prescritos por la ley, con el Tribunal Distrital de Apelaciones pertinente. Es la responsabilidad de la parte apelando al tribunal la de preparar una transcripción del registro. Si en la audiencia no se encontraba ningún estenógrafo registrado en los tribunales, la transcripción debe ser preparada de una copia de la grabación de la audiencia del Delegado Especial [*Special Deputy*], la cual puede ser solicitada de la Oficina de Apelaciones.

Nenpòt demann pou yon revizyon jiridik fèt pou l kòmanse lan yon peryòd 30 jou apati de dat ke Lòd la te depoze a. Revizyon jiridik la kòmanse avèk depo yon kopi yon *Avi Dapèl* ki voye bay DEPARTMENT OF ECONOMIC OPPORTUNITY lan nan adrès ki parèt pi wo a, lan tèt Lòd sa a e yon dezyèm kopi, avèk frè depo ki preskri pa lalwa, bay Kou Dapèl Distrik apwopriye a. Se responsabilite pati k ap prezante apèl la bay Tribinal la pou l prepare yon kopi dosye a. Si pa te gen yon stenograf lan seyans lan, kopi a fèt pou l prepare apati de kopi anrejistreman seyans lan ke Adjwen Spesyal la te fè a, e ke w ka mande Biwo Dapèl la voye pou ou.

DONE and ORDERED at Tallahassee, Florida, this 12th day of June, 2014.



Magnus Hines
Magnus Hines
RA Appeals Manager,
Reemployment Assistance Program
DEPARTMENT OF ECONOMIC OPPORTUNITY

FILED ON THIS DATE PURSUANT TO § 120.52,
FLORIDA STATUTES, WITH THE DESIGNATED
DEPARTMENT CLERK, RECEIPT OF WHICH IS
HEREBY ACKNOWLEDGED.

Shanendra Y. Barnes
DEPUTY CLERK

6/16/14
DATE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing Final Order have been furnished to the persons listed below in the manner described, on the 16th day of June, 2014.

Shanendra Y. Barnes
SHANEDRA Y. BARNES, Special Deputy Clerk
DEPARTMENT OF ECONOMIC
OPPORTUNITY
Reemployment Assistance Appeals
PO BOX 5250
TALLAHASSEE FL 32399-5250

By U.S. Mail:

ABACO JET SERVICES LLC
C/O MIKE MELDEAU
2600 DELMAR PL
FORT LAUDERDALE FL 33301-1576

DEPARTMENT OF REVENUE
WILLA DENNARD
CCOC BLDG #1 SUITE 1400
2450 SHUMARD OAK BLVD
TALLAHASSEE FL 32399

DEPARTMENT OF REVENUE
ATTN: JOYCE FLAKES
FIELD OPS COLLECTIONS- CORAL
SPRINGS
CORAL SPRINGS FL 33065-4149

State of Florida
DEPARTMENT OF ECONOMIC OPPORTUNITY
c/o Department of Revenue

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RESPONDENT:

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RECOMMENDED ORDER OF SPECIAL DEPUTY

TO: Magnus Hines
RA Appeals Manager,
Reemployment Assistance Program
DEPARTMENT OF ECONOMIC OPPORTUNITY

This matter comes before the undersigned Special Deputy pursuant to the Petitioner's protest of the Respondent's determination dated February 6, 2014.

After due notice to the parties, a telephone hearing was held on April 16, 2014. The Petitioner, represented by its managing member, appeared and testified. The Petitioner's Certified Public Accountant testified as an additional witness.

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 the Petitioner is entitled to waiver of penalty and interest for delinquent reports, pursuant to §443.141(1), Florida Statutes; Rule 73B-10.028(4), Florida Administrative Code.

Findings of Fact:

1. The Petitioner is a Florida limited liability company which provides aircraft services.
2. On October 23, 2013, the Internal Revenue Service concluded an audit of the Petitioner's books and records. Although the Internal Revenue Service did not make any changes to the Petitioner's tax return, the tax auditor recommended that the Petitioner file state unemployment tax reports on the earnings of the Petitioner's managing member.
3. The Petitioner's Certified Public Accountant completed the reemployment assistance tax report for the fourth quarter 2012 and mailed it to the Florida Department of Revenue with a cover letter during the latter part of 2013.

4. When the Florida Department of Revenue received the fourth quarter 2012 tax report it was determined, based on the information on the tax report and the cover letter, that the Petitioner had established liability for payment of reemployment assistance contributions effective October 1, 2012.
5. By determination dated as mailed on or before January 23, 2014, the Department of Revenue notified the Petitioner that the Petitioner had established liability for payment of reemployment assistance tax effective October 1, 2012.
6. On or about February 6, 2014, the Department of Revenue notified the Petitioner that penalties in the amount of \$224.36 were due for the fourth quarter 2012.
7. The Petitioner requested waiver of the late filing penalties for the fourth quarter 2012. By determination dated February 6, 2014, the Department of Revenue denied the Petitioner's request for waiver of late filing penalties. The Petitioner filed a timely protest by FedEx on February 18, 2014.

Conclusions of Law:

8. Rule 73B-10.025(1), Florida Administrative Code, provides:
 - (b) Each quarterly report must:
 1. Be filed with the Department of Revenue by the last day of the month following the calendar quarter to which the report applies, except for reports filed by electronic means, which are to be filed as provided in Rule 73B-10.023, F.A.C. However, an employer reporting for the first time is authorized 15 consecutive calendar days from the notification of liability to submit reports for previous calendar quarters without incurring penalty charges; and (emphasis supplied)
 2. Be filed for each calendar quarter during which the employer was liable, even if no contributions are payable. If there was no employment during the calendar quarter to which the report applies, the report must be completed to so reflect.
9. The Petitioner's liability notification date is the mailing date of the liability notification determination, on or before January 23, 2014. The Petitioner was allowed fifteen days from January 23, 2014, to file the tax reports without incurring a late filing penalty. The Petitioner's fourth quarter 2012 reemployment tax report was filed prior to January 23, 2014, and was the basis of the determination that the Petitioner had established liability effective October 1, 2012. Thus, no late filing penalties are due.

Recommendation: It is recommended that the determination dated February 6, 2014, be REVERSED.

Respectfully submitted on May 15, 2014.

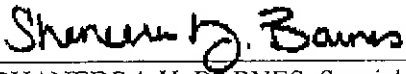


R. O. Smith Special Deputy
Office of Appeals

A party aggrieved by the *Recommended Order* may file written exceptions to the Director at the address shown above within fifteen days of the mailing date of the *Recommended Order*. Any opposing party may file counter exceptions within ten days of the mailing of the original exceptions. A brief in opposition to counter exceptions may be filed within ten days of the mailing of the counter exceptions. Any party initiating such correspondence must send a copy of the correspondence to each party of record and indicate that copies were sent.

Una parte que se vea perjudicada por la *Orden Recomendada* puede registrar excepciones por escrito al Director Designado en la dirección que aparece arriba dentro de quince días a partir de la fecha del envío por correo de la *Orden Recomendada*. Cualquier contraparte puede registrar contra-excepciones dentro de los diez días a partir de la fecha de envío por correo de las excepciones originales. Un sumario en oposición a contra-excepciones puede ser registrado dentro de los diez días a partir de la fecha de envío por correo de las contra-excepciones. Cualquier parte que dé inicio a tal correspondencia debe enviarle una copia de tal correspondencia a cada parte contenida en el registro y señalar que copias fueron remitidas.

Yon pati ke *Lòd Rekòmande* a afekte ka prezante de eksklizyon alekri bay Direktè Adjwen an lan adrès ki parèt anlè a lan yon peryòd kenz jou apati de dat ke *Lòd Rekòmande* a te poste a. Nenpòt pati ki fè opozisyon ka prezante objeksyon a eksklizyon yo lan yon peryòd dis jou apati de lè ke objeksyon a eksklizyon orijinal yo te poste. Yon dosye ki prezante ann opozisyon a objeksyon a eksklizyon yo, ka prezante lan yon peryòd dis jou apati de dat ke objeksyon a eksklizyon yo te poste. Nenpòt pati ki angaje yon korespondans konsa dwe voye yon kopi kourye a bay chak pati ki enplike lan dosye a e endike ke yo te voye kopi yo.



SHANEDRA Y. BARNES, Special Deputy Clerk

Date Mailed:
May 15, 2014

Copies mailed to:
Petitioner
Respondent

WILLA DENNARD
DEPARTMENT OF REVENUE
CCOC BLDG #1 SUITE 1400
2450 SHUMARD OAK BLVD
TALLAHASSEE FL 32399

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