

**AGENCY FOR WORKFORCE INNOVATION
Unemployment Compensation Appeals**

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

PETITIONER:

Employer Account No. - 2951628
PRESTIGE PROPERTY ENTERPRISES INC
WILLIAM CAMPBELL
1935 SW 12TH PLACE
CAPE CORAL FL 33991-3237

**PROTEST OF LIABILITY
DOCKET NO. 2010-89601L**

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 June 7, 2010.

After due notice to the parties, a telephone hearing was held on November 17, 2010. The Petitioner, represented by the Petitioner's president, appeared and testified. The Respondent, represented by a Department of Revenue Senior Tax Specialist, appeared and testified.

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 a waiver of penalty and interest for delinquent reports pursuant to Section 443.141(1), Florida Statutes and Rule 60BB-2.028(4), Florida Administrative Code.

Findings of Fact:

1. The Petitioner is a corporation which was formed effective January 1, 2009.
2. The Petitioner's president was not aware that the Petitioner was required to file quarterly unemployment compensation tax reports and to pay tax on the wages of the employees. In early April 2010 the Petitioner's accountant advised the president of that responsibility. The Petitioner immediately submitted an application to register for payment of unemployment compensation tax.
3. By letter dated April 8, 2010, the Department of Revenue notified the Petitioner that the Petitioner was liable for payment of unemployment compensation tax effective January 1, 2009.
4. By mail postmarked April 19, 2010, the Petitioner filed the unemployment compensation tax reports and paid the taxes that were due.

5. The Department of Revenue assessed late filing penalties for all four quarters of 2009. By letter dated June 1, 2010, the Petitioner requested that the penalties be waived.
6. The Department of Revenue denied the Petitioner's request for waiver by determinations dated June 7, 2010. The Petitioner filed a timely protest by mail postmarked June 15, 2010.

Conclusions of Law:

7. Rule 60BB2.025(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 60BB-2.023, 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. (emphasis supplied)
8. Since the Petitioner filed the tax reports and paid the tax within 15 calendar days of the notification of liability, no penalties are due.

Recommendation: It is recommended that the determinations dated June 7, 2010, be REVERSED.

Respectfully submitted on November 18, 2010.



R. O. SMITH, Special Deputy
Office of Appeals

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TALLAHASSEE, FLORIDA**

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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 determinations dated June 7, 2010, are REVERSED.

DONE and ORDERED at Tallahassee, Florida, this _____ day of **February, 2011**.



TOM CLENDENNING
Assistant Director
AGENCY FOR WORKFORCE INNOVATION