

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

**PETITIONER:**

Employer Account No. – 2880730  
I L SERVICES INC  
ATTN: CLIFFORD KNAGGS, OWNER  
4081 N FEDERAL HWY STE 230  
POMPANO BEACH FL 33064-6058

**PROTEST OF LIABILITY  
DOCKET NO. 0023 1521 24-02**

**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 May 19, 2014, is AFFIRMED.

### 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 responsabiltè 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 17<sup>th</sup> day of **March, 2015**.



*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

3-18-15

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 18<sup>th</sup> day of March, 2015.

*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:

BARBARA BUCKBEE  
CORAL SPRINGS SERVICE CENTER  
FLORIDA DEPARTMENT OF  
REVENUE  
COMPLIANCE CAMPAIGNS  
3301 N UNIVERSITY DRIVE  
SUITE 200  
CORAL SPRINGS FL 33065-4149

I L SERVICES INC  
ATTN: CLIFFORD KNAGGS, OWNER  
4081 N FEDERAL HWY STE 230  
POMPANO BEACH FL 33064-6058

I L SERVICES INC  
ATTN: CLIFFORD KNAGGS, OWNER  
PO BOX 651  
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State of Florida  
DEPARTMENT OF ECONOMIC OPPORTUNITY  
c/o Department of Revenue

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DOCKET NO. 0023 1521 24-02**

**RESPONDENT:**

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

**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 May 19, 2014.

After due notice to the parties, a telephone hearing was held on September 22, 2014. The Petitioner, represented by its president, 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 received from the Petitioner.

**ISSUE:** Whether the Petitioner's corporate officer received remuneration for employment which constitutes wages pursuant to §443.036(21); 443.036(40); 443.1216, Florida Statutes; Rule 73B-10.025(2), Florida Administrative Code.

**Findings of Fact:**

1. The Petitioner, I.L. Services, Inc., is a subchapter S corporation which was formed in 2001 to operate a business providing language translation services and income tax preparation. The Petitioner's president and sole corporate officer is Clifford Knaggs, the individual who performs all of the language translation and income tax preparation for the Petitioner.

2. Clifford Knaggs is a certified legal consultant. Prior to 2012 Clifford Knaggs earned income from services performed as a legal consultant but kept that income separate from the income earned by the Petitioner. During those years he reported the legal consulting income on his personal income tax return as income from a sole proprietorship.
3. During 2012 Clifford Knaggs earned income as a legal consultant but mixed that income with the income earned by the Petitioner. At the end of 2012 Clifford Knaggs prepared a Form 1099 showing that the Petitioner paid Clifford Knaggs \$9,180 as an independent contractor. The \$9,180 was the income from legal consulting services.
4. During 2012 the Petitioner paid Clifford Knaggs \$13,310 in wages in addition to the \$9,180 reported on the Form 1099. The Petitioner reported those wages on the Petitioner's quarterly reemployment assistance tax reports.
5. Clifford Knaggs prepared the Petitioner's 1120S, *U.S Income Tax Return for an S Corporation*, on which he reported the wages paid to him by the Petitioner in the amount of \$13,310. He reported the \$9,180 independent contractor payment as an expense deducted from the income of the Petitioner.
6. The Department of Revenue selected the Petitioner for an audit of the Petitioner's books and records for 2012 to ensure compliance with the Florida Reemployment Assistance Program Law.
7. The Department of Revenue reclassified the \$9,180 payment to Clifford Knaggs as wages. Since the Petitioner had already reported wages paid to Clifford Knaggs in the amount of \$13,310, the \$9,180 was determined to be excess wages resulting in no additional tax due. The Petitioner was notified of the audit results by *Notice of Proposed Assessment* dated May 19, 2014. The Petitioner filed a timely protest on June 9, 2014.

#### Conclusions of Law:

8. Section 443.036(20)(c), Florida Statutes provides that a person who is an officer of a corporation, or a member of a limited liability company classified as a corporation for federal income tax purposes, and who performs services for the corporation or limited liability company in this state, regardless of whether those services are continuous, is deemed an employee of the corporation or the limited liability company during all of each week of his or her tenure of office, regardless of whether he or she is compensated for those services. Services are presumed to be rendered for the corporation in cases in which the officer is compensated by means other than dividends upon shares of stock of the corporation owned by him or her.
9. Clifford Knaggs is a statutory employee of the Petitioner. During 2012 the Petitioner included legal consultation income produced by Clifford Knaggs as income of the Petitioner. The Petitioner paid Clifford Knaggs \$9,180 for the legal consultation services and deducted the payment from the Petitioner's income on the Petitioner's federal income tax return, Form 1120S, *U.S Income Tax Return for an S Corporation*.
10. In Spicer Accounting, Inc. v. United States, 918 F.2d 90 (9<sup>th</sup> Cir. 1990), the court determined that dividends paid by an S corporation to an officer of the corporation who performed services for the business, were wages subject to federal employment taxes, including federal unemployment compensation taxes. The court relied upon federal regulations which provide that the "form of payment is immaterial, the only relevant factor being whether the payments were actually received as compensation for employment."
11. As a statutory employee of the Petitioner any payments received by Clifford Knaggs for services performed for the Petitioner are wages. Although Clifford Knaggs may have reported the legal consultation income on his personal federal income tax returns in past years as income earned by a sole proprietor, in 2012 the Petitioner reported the legal consultation income as income of the Petitioner and took credit for the \$9,180 payment as an expense against the income of the Petitioner.

12. The \$9,180 paid by the Petitioner to Clifford Knaggs was properly reclassified by the Department of Revenue as wages.

**Recommendation:** It is recommended that the determination dated May 19, 2014, be AFFIRMED.

Respectfully submitted on January 29, 2015.




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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:**

**January 29, 2015**



Copies mailed to:

Petitioner

Respondent

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