

**STATE OF VERMONT
DEPARTMENT OF LABOR**

Workers' Compensation and Safety Division,
Petitioner

v.

Tamarack Land Corp. ,
Respondent

Docket No. 18-10WCPen

By: Phyllis Phillips, Esq.
Hearing Officer

For: Valerie Rickert
Acting Commissioner

ORDER

The parties to the above matter have entered into a Stipulation and Consent Order (attached hereto as Exhibit 1), the terms of which are incorporated herein by reference. Based on that Stipulation, it is hereby **ORDERED**:

1. An administrative penalty is hereby assessed against Respondent in the amount of \$4,600.00.
2. Respondent's contest of Petitioner's Administrative Citation and Penalty No. 18-10WCPen is hereby withdrawn.
3. Respondent's payment of the administrative penalty referred to in Paragraph No. 1 above shall be structured as follows:
 - (a) Respondent, or its individual officers, shall make payment of \$1,500.00 to the Vermont Department of Labor, or its successor agency, on or before December 1, 2010;
 - (b) Respondent, or its individual officers, shall make payments of \$300.00 per month to the Vermont Department of Labor, or its successor agency, on or before the first day of January, February, March, April and May 2011, so that a total of \$3,000.00 has been paid by May 1, 2011.
 - (c) If Respondent and its individual officers fall a cumulative total of 30 days or \$300.00 in arrears of the payment schedule described in Paragraphs 3(a) and (b) above, Respondent will be in breach of this Order and the entire remainder of the \$4,600.00 penalty shall be immediately due and payable jointly by the Respondent and its individual officers.
 - (d) The \$1,600.00 of the assessed administrative penalty remaining after the payments described in Paragraphs 3(a) and (b) above shall be held in abeyance for a period of up to one year following November 1, 2010 so long as:

- (i) Respondent, and its individual officers in any other business endeavor they may undertake in Vermont, maintain workers' compensation insurance for all covered employees, if any, as required by 21 V.S.A. §687; and
 - (ii) Respondent, and its individual officers in any other business endeavor they may undertake in Vermont, post and maintain in a conspicuous place in its business locations, if any, a current copy of the WC-10 poster as required by 21 V.S.A. §691; and
 - (iii) Respondent, and its individual officers in any other business endeavor they may undertake in Vermont, promptly report all work-related injuries, if any, to its insurance carrier and/or to the Vermont Department of Labor as required by statute and rule; and
 - (iv) Respondent, and its individual officers in any other business endeavor they may undertake in Vermont, provide employee wage information to its workers' compensation insurance carrier upon request; and
 - (v) Respondent, and its individual officers in any other business endeavor they may undertake in Vermont, refrain from unlawful discrimination as prohibited by 21 V.S.A. §710; and
 - (vi) There is no demonstrated occurrence of any compensable work injury to a covered employee of Respondent during a period when Respondent lacked required workers' compensation coverage.
- (e) Should Respondent and its individual officers fail to abide by any of the terms of Paragraphs 3(d)(i) through 3(d)(v) above, or should the demonstration described in Paragraph 3(d)(vi) occur, the \$1,600.00 held in abeyance shall be immediately due and payable to the Vermont Department of Labor, in addition to any other penalties or costs assessed for such infractions.

4. Noncompliance with any of the terms of this Order shall constitute a violation of a lawful order of the Commissioner of Labor and shall be a separate violation subjecting Respondent and/or its individual officers to administrative action or sanctions as the Commissioner deems appropriate. The Commissioner shall retain jurisdiction over this matter for the purpose of enforcing this Order. Should Petitioner prevail in a suit filed to enforce the terms of this Order, Respondent shall pay all fees and costs incurred by Petitioner in prosecuting the suit and effecting recovery.

DATED at Montpelier, Vermont this 17th day of November 2010.

Valerie Rickert
Acting Commissioner

Appeal:

Within 30 days after copies of this opinion have been mailed, either party may appeal questions of fact or mixed questions of law and fact to a superior court or questions of law to the Vermont Supreme Court. 21 V.S.A. §§670, 672.