

**AGENCY FOR WORKFORCE INNOVATION
TALLAHASSEE, FLORIDA**

PETITIONER:

Employer Account No. - 3001131
SPLENDOUR NAPLES LLC
9001 DANIELS PKWY STE 200
FORT MYERS FL 33912-8200

RESPONDENT:

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

**PROTEST OF LIABILITY
DOCKET NO. 2011-33231L**

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 January 19, 2011, is AFFIRMED.

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



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. - 3001131
SPLENDOUR NAPLES LLC
ATTN: JOHN REISMAN
9001 DANIELS PKWY STE 200
FORT MYERS FL 33912-8200

RESPONDENT:

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

**PROTEST OF LIABILITY
DOCKET NO. 2011-33231L**

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 January 19, 2011.

After due notice to the parties, a telephone hearing was held on May 12, 2011. A human resources manager appeared and testified on behalf of the Petitioner. The Joined Party appeared and testified on his own behalf. A tax specialist 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 and other individuals constitute insured employment pursuant to Sections 443.036(19), 443.036(21); 443.1216, Florida Statutes, and if so, the effective date of the liability.

Findings of Fact:

1. The Petitioner is a limited liability company created to cover liability for running a yacht.
2. The Petitioner's yacht is registered in the State of Florida.
3. The Petitioner's yacht is based in the State of Florida.
4. The Petitioner's address is in the State of Florida.

5. The yacht's owners reside in the State of Florida.
6. The Joined Party performed services for the Petitioner as a yacht captain from July 1, 2009, through July 1, 2010.
7. The Joined Party's responsibilities included supervision of the crew, operating the yacht, cleaning and maintenance of the yacht.
8. The yacht operated primarily out of and around Miami, Florida.

Conclusions of Law:

9. Florida Statute section 443.1216(11) states that, "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.
10. The evidence presented in this case reveals that the Joined Party performed services as an officer on board a yacht.
11. The evidence presented reveals that the yacht is registered in Florida and as such is an American vessel.
12. The Petitioner and the yacht's owners are located within the State of Florida.
13. A preponderance of the evidence in this case reveals that the Joined Party performed services as an officer of an American vessel, on or in connection with the vessel and that the operating office from which the vessel operating both inside and outside the United States, is ordinarily and regularly supervised, managed, directed and controlled within Florida.

Recommendation: It is recommended that the determination dated January 19, 2011, be AFFIRMED.

Respectfully submitted on July 13, 2011.



KRIS LONKANI, Special Deputy
Office of Appeals