STATE OF FLORIDA DEPARTMENT OF REVENUE

UNITED PETRO VII, INC.,

Petitioner,

vs.

DEPARTMENT OF REVENUE,

Respondent.

/

DOAH Case Number: 22-2070
Audit Number: 200075627
DOR 2023-006- FOF

FILED
Department of Revenue – Agency Clerk
Date Filed: June 15, 2023
By: Ayonna Cruz

FINAL ORDER

This cause came before the State of Florida, Department of Revenue (the Department) for the purpose of issuing a Final Order. The Administrative Law Judge ("ALJ") assigned by the Division of Administrative Hearings ("DOAH") heard this cause and submitted a Recommended Order ("Order") to the Department. A copy of the Order, issued May 8, 2023, by Judge Robert L. Kilbride, is attached to this order and incorporated by reference as if fully set forth herein as Exhibit 1. The deadline for filing exceptions to the Order with the Department was May 23, 2023. Neither party filed exceptions to the Order.

FINDINGS OF FACT

Pursuant to Subsection 120.57(1)(l), F.S., the Department is bound by the findings of fact in the Recommended Order unless, following a review of the entire record, the Department determines that a finding of fact is not based on competent, substantial evidence or that the proceedings did not comply with the essential requirements of law. In order to modify or reject a finding of fact, the Department must identify valid reasons for such modification or rejection, and state those reasons with particularity. It is insufficient to merely conclude that a finding is not supported by competent, substantial evidence without explanation. *Prysi v. Department of Health*, 823 So.2d 823 (Fla. 1st DCA 2002). If the evidence adduced at the final DOAH hearing could support inconsistent findings of fact, it is the Administrative Law Judge that must

determine which factual findings are best supported by the competent, substantial evidence. An agency may not reconsider either the weight of the evidence, or the credibility of witnesses. *Walker v. Board of Professional Engineers*, 946 So.2d 604 (Fla. 1st DCA 2006).

The findings of fact determined by the ALJ are supported by competent, substantial evidence. The Department adopts and incorporates in this Final Order the findings of fact set forth in the Recommended Order as if fully set forth herein.

CONCLUSIONS OF LAW

Regarding conclusions of law, Subsection 120.57(1)(l), F.S., provides that the Department may reject or modify conclusions of law and interpretations of rules over which the Department has substantive jurisdiction on the condition that the Department determines, and states with particularity the reasons, that each substituted or revised conclusion of law is as, or more, reasonable than the conclusion of law that was modified or rejected. *Barfield v. Department of Health, Board of Dentistry*, 805 So.2d 1008 (Fla. 1st DCA 2001).

There are no substantive modifications to the conclusions of law that would be as or more reasonable than the conclusions of law determined by the ALJ. However, in the first sentence of paragraph 68 the ALJ refers to the Petitioner as the "Respondent". Given the context, this is clearly a purely typographical error. This sentence is modified to read:

> Applying the provisions of section 212.12(5)(b), the penalty assessment made by the Department was correctly determined, and Petitioner failed to rebut this determination with any persuasive or credible evidence."

The Department adopts and incorporates in this Final Order the conclusions of law set forth in the Recommended Order, as modified, as if fully set forth herein.

Accordingly, it is ORDERED that the assessment of sales and use tax against Petitioner that formed the basis of this contest is hereby sustained in its entirety.

NOTICE OF RIGHT TO JUDICIAL REVIEW

Any party to this Order has the right to seek judicial review of the Order pursuant to Section 120.68, Florida Statutes, by filing a Notice of Appeal pursuant to Rule 9.110 Florida Rules of Appellate Procedure, with the Agency Clerk of the Department of Revenue in the Office of the General Counsel, P.O Box 6668, Tallahassee, Florida 32314-6668 [FAX (850) 488-7112], **AND** by filing a **copy** of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. **The Notice of Appeal must be filed within 30 days from the date this Order is filed with the Clerk of the Department.**

DONE AND ENTERED in Tallahassee, Leon County, Florida this 15th day of June, 2023.

STATE OF FLORIDA
DEPARTMENT OF REVENUE

MARK S. HAMILTON
GENERAL COUNSEL

CERTIFICATE OF FILING AND SERVICE

I HEREBY CERTIFY that the foregoing FINAL ORDER has been filed in the official records of the Department of Revenue and that a true and correct copy of the Final Order has been furnished by United States mail, both regular first class and certified mail return receipt requested, to Petitioner at 5667 Sandbirch Way, Lake Worth, FL 33463-7204 and C/O Zersis Minocher at 11336 Wiles Road, Coral Springs, FL 33076 this 15th day of June, 2023.

Deputy Agency Clerk

Copies furnished to:

Robert L. Kilbride
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
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STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

UNITED PETRO VII, INC.,

Petitioner,

vs. Case No. 22-2070

DEPARTMENT OF REVENUE,

Respondent.
_____/

RECOMMENDED ORDER

A final hearing was held on November 22, 2022, by Zoom conference, before Robert L. Kilbride, an Administrative Law Judge of the Division of Administrative Hearings ("DOAH"), in Tallahassee, Florida.

APPEARANCES

For Petitioner: Zersis Minocher, Qualified Representative
Zersis Minocher, P.A.
11336 Wiles Road
Coral Springs, Florida 33076

For Respondent: John G. Savoca, Esquire
Office of the Attorney General
The Capitol, Plaza Level 01
Tallahassee, Florida 32399-1050

STATEMENT OF THE ISSUE

Whether the Department of Revenue's June 16, 2020, Notice of Proposed Assessment ("NOPA") should be upheld.

PRELIMINARY STATEMENT

On August 29, 2019, the Department of Revenue ("Department") initiated a sales and use tax audit of Petitioner, United Petro VII, Inc. ("Petro" or

Exhibit 1

"Petitioner"). Upon completion of the audit, the Department issued a NOPA on June 16, 2020, assessing Petro with sales tax, penalty, and interest owed in the total sum of $116,748.26.

On or about September 16, 2020, the Department received a letter of protest from Petro challenging the NOPA. On January 20, 2021, in response to Petro's protest, the Department issued a Notice of Decision upholding the assessment.

On March 20, 2021, Petro submitted a timely petition to the Department challenging the Department's Notice of Decision. On July 13, 2022, the Department referred the petition to DOAH for an evidentiary hearing.

The final hearing was originally set for September 27, 2022, but was continued to November 22, 2022.

On September 1, 2022, the Department filed a Motion to Deem Matters Admitted and Relinquish Jurisdiction. The Department's motion was denied by the undersigned on September 9, 2022.

On November 10, 2022, the Department filed a Motion in Limine to prohibit Petro from introducing any documents at the final hearing, whether summary or otherwise, that were not produced during the audit period or during the informal protest. Based on the reasoning in the motion and the cases cited by the Department, the undersigned granted the motion at the final hearing.

The final hearing was held on November 22, 2022. At the hearing, Petro presented no witnesses, relying only on a few statements or comments by

Petitioner's qualified representative. Likewise, Petro failed to introduce or proffer any exhibits at the hearing.

Testifying for the Department were Jacqueline Aragon, Cheryl Gonatos, and Ron Collier. The undersigned admitted into evidence Respondent's Exhibits 1 through 13, which will be referred to as "RE" followed by the exhibit number.

After the hearing, Respondent filed an unopposed motion for extension of time to file its proposed recommended order ("PRO"). This motion was granted.

The transcript of the final hearing was filed with DOAH on January 27, 2023.

On February 7, 2023, Petro filed a request for an extension of 30 additional days in which to submit its PRO. The undersigned granted the motion.

The parties timely filed their PROs, which the undersigned reviewed before preparing this Recommended Order. Any references to statutes or rules refer to those in effect on the date of the conduct, act, or omission.

FINDINGS OF FACT

The Parties

1. The Department is the state agency responsible for administering and enforcing Florida's sales and use tax laws under chapter 212, Florida Statutes.

2. Petro is an inactive Florida corporation which operated a gas station and convenience store in Lake Worth, Florida, during the audit period of August 1, 2016, through July 31, 2019.

3. Along with fuel products, Petro sold beer, wine, cigarettes, cigars and other tobacco products, snack products and other incidental items generally found in convenience stores. RE1, at 001; RE9, at 001; and RE15, at 001.

The Audit

4. On August 29, 2019, the Department issued Petro a Notice of Intent to Conduct a Limited Scope Audit or Self-Audit for Sales and Use Tax ("Notice"), encompassing the period August 1, 2016, through July 31, 2019 ("audit period"), under chapter 212. RE1.

5. The Department's auditor, Jacqueline Aragon, testified that the Notice is an initial notice, sent by certified mail, to inform a taxpayer that it had been chosen for an audit.

6. Aragon explained that the Notice informs the taxpayer about the statutory authority of the Department to audit, the length of the audit period, the documents to be provided to the Department, and the due date to provide those documents.

7. The Notice requires that the taxpayer complete a questionnaire which focuses on the documentation the Department needs to perform the audit. The Notice sent to Petro included the following: A request for a list of vendors for alcoholic beverage and tobacco products, federal tax returns, purchase receipts for three months, Z tapes for three months during the audit period, and the taxpayer's sales markup so that the Department can know the profit margin of the business.[1]

8. The Notice also provides a taxpayer with the opportunity to do a "self-audit." This self-audit enables a taxpayer to disclose taxable sales and unpaid

[1] Wholesale vendors must, as a condition of holding a license to sell alcoholic beverages and tobacco, report to the Department sales made to their retail customers (like Petro). *See also* § 212.133, Fla. Stat.

tax that have not been previously reported to the Department on its monthly sales and use tax returns.

9. Regarding a convenience store, Aragon noted that Z tapes are useful because they break down a store's sales of beer, wine, liquor, cigarettes, lottery, gas and the sales tax collected. During an audit, the Department typically requests Z tapes from the last three months of the audit period to ascertain markups and the "percentage of [alcoholic beverage and tobacco ("ABT")] sales over total taxable sales."

10. The Department's request for Z tapes for those three months is more convenient for the taxpayer and presents the "same information" as 36 months of the entire audit period. If the Department receives more than three months of Z tapes, it will still take the average for those months.

11. In an audit of a convenience store like Petro, the Department uses markups to determine the estimated dollar amount of sales made by a taxpayer. For its audit of Petro, the Department used prior audit data of other convenience stores for markups since Petro did not provide the Department with Z tapes as requested.

12. The Department applied prior audit markup data (expressed as a percentage of the wholesale cost for each ABT product) to Petro's wholesale alcoholic beverage and tobacco purchase data to estimate Petro's total of taxable sales of ABT products.

13. More specifically, Petro's purchases at wholesale, $1,275,428.23, plus markups, equals the total estimated amount of taxable ABT sales for the audit period of $1,508,981.98. RE4, at 016.[2]

14. Petro received follow-up correspondence from the Department, dated January 3, 2020. Petro was informed of the commencement date of the audit and was provided with a list of requested documents to be made

[2] The Transcript, at page 65, line 17, erroneously reflects a total of $1,580,981.98. The actual figure, based on the Department's ABT Data Examination Report, Respondent's Exhibit 9, at 008, indicates the figure is $1,508,981.98 and is corrected here for accuracy.

available for the Department's inspection—the same records the Department had requested in the previous Notice. RE1.

15. Aragon called and spoke with Petro's owner, Syed Mahbob, to find out if the company received the earlier Notice. She informed him that the Department had not received any of the records requested in the initial Notice. During that conversation, Aragon also explained to Mahbob that the Z tapes were needed to estimate the assessment.

16. Mahbob told Aragon that Petro's accountant had the records requested by the Department and that the Department should request them from him. RE2.

17. Petro received additional correspondence from the Department, dated February 26, 2020. This letter outlined that Petro had been mailed a follow-up letter and request for documentation. (This referred to the previous January 3, 2020, letter).

18. The February 26, 2020, letter also memorialized a conversation between Aragon and Mahbob in which Aragon again requested assistance from Petro in obtaining the needed records—Z tapes and actual markups of products sold.[3]

19. On March 6, 2020, the Department sent Petro, by certified mail, a Notice of Intent to Make Audit Changes in which it summarized the audit findings, including the amount of tax, interest, and penalty owed by Petro.

20. This Notice also provided Petro with the choice to send payment, if it agreed with the assessment, or to contact the Department by a date certain to request another review if the audit findings required any revisions. RE4.

21. In correspondence dated April 24, 2020, memorializing a conversation with Mahbob, Aragon again confirmed with him that no records had been

[3] That same conversation also confirmed that as of the date of the discussion, no records had been provided to the Department, and Mahbob informed the Department that his accountant was waiting for the Department to issue its assessment before the accountant would provide the records the Department had been requesting. RE3.

provided by Petro. She also informed him that Petro's accountant, Zersis Minocher, had been copied on the correspondence.

22. During that prior conversation, Mahbob stated that the Department should have received records from his accountant. Aragon informed Mahbob that it had not, and since it received no documentation from Petro, including Petro's Z tapes, that the Department would be issuing a NOPA to Petro within two weeks. She had explained that this would occur unless the Department received additional information from Petro before the end of that two-week period. RE5 and RE7.

23. Petro received email correspondence from the Department, dated May 12, 2020, in which Aragon again documented a phone call with Mahbob regarding the mutual understanding that the Department would issue the NOPA. In that same conversation, Mahbob stated that he did not intend to provide any records to the Department, as he was waiting for the Department to issue its NOPA. RE6 and RE7, at 005.

24. The Department issued the NOPA, dated June 16, 2020, to Petro, sustaining the findings of the audit and officially notifying it of its sales and use tax liability in the amount of $80,935.86, plus penalties and interest, for a total assessment of $116,748.26. The NOPA also informed Petro of the timeframe to informally and formally protest the assessment. RE8.

25. The Department's NOPA was based on a comprehensive analysis and audit it performed using the best information available to estimate the taxable sales from Petro's purchases (ABT data of purchases reported by Petro's vendors) as the Department was unable to confirm that Petro filed and remitted the correct amount of tax during the audit period. The Department gave credit to Petro for the tax it remitted with the filing of its monthly returns.

26. According to Aragon, the best information available to the Department, based on its analysis and audit, indicated that Petro purchased

$1,275,428.23 of alcoholic beverages and tobacco products while only reporting taxable sales of $912,433.06 to the Department. RE4, at 016.

27. From this information, Aragon reasonably concluded, in part, that Petro had not reported all of its taxable sales reasoning that if Petro was purchasing this amount of products, and they also sell other items in that store, not just alcohol beverages and tobacco products, their taxable sale should be greater than that.

The Informal Protest

28. On September 16, 2020, Petro informally protested the NOPA. RE 9. That same date, the Department received a Power of Attorney form, indicating that Zersis Minocher was Petro's "other qualified representative." RE9, at 004.

29. Petro received correspondence from the Department, dated November 3, 2020, in which the Department's Tax Conferee, Cheryl Gonatos, informed the company that she would be reviewing the file, and included a request for additional documents should any be available. RE10.

30. On December 15, 2020, Gonatos emailed Petro and its representative. She noted in the email that Petro had not provided any of the documentation requested by the Department. She again requested Petro's records, specifically requesting three months of Z tapes during the audit period with a category breakdown of the type of sale, percentage of markup for ABT sales, and reports from vendors on their letterhead, documenting actual purchase reports for the audit period.

31. Regrettably, the Department did not receive any of the information or records it requested in that email to Petro. RE1, at 001.

32. In another email, dated January 13, 2021, from Gonatos to Minocher, she informed Petro that the Department had reduced the assessed tax from $80,935.86 to $75,135.74, after using the markup information provided by Petro in its letter of protest to the Department regarding the audit findings. RE9.

33. Using Petro's markup information, Gonatos stated that the Department would be willing to further reduce the amount of the assessed tax to $64,625.91 and waive any associated penalty, even though Petro had not provided the Department with any of the "backup documentation" it had requested.

34. In addition, Gonatos stated that if she applied the percentage of ABT sales during the audit period asserted by Petro in its informal letter of protest (60-64 percent), that percent of sales would increase the amount of Petro's tax liability "drastically," as that amount included exempt sales which the Department does not use in its ABT model for calculating taxable sales. RE12.

35. Petro did not respond to the Department's offer to reduce the assessment to $64,625.91.

36. The Department issued its Notice of Decision ("NOD") to Petro on January 20, 2021, sustaining an assessment of $116,748.26. RE13.

37. The NOD noted that during the audit, Petro failed to provide necessary documentation. Therefore, the auditor made an assessment relying on the third-party ABT purchase data. RE13, at 002.

38. It was also noted in the NOD that during the informal protest, Gonatos contacted Petro and requested it to provide additional information, but Petro provided no response to the Department. *Id.*

39. Petro had a legal duty to keep and produce adequate business records to determine the correct amount of tax due.

40. Under section 212.12(5)(b), the Department's assessment was considered prima facie correct, and the burden shifted to the taxpayer, Petro, to show that the Department's assessment was incorrect. Petro failed to show that the Department's assessment was incorrect.

41. Furthermore, it was established by the evidence that Petro failed and refused to provide or make its records available for inspection during the

audit period and the informal protest. As a result, the audit did not include its books and records.

CONCLUSIONS OF LAW

42. DOAH has jurisdiction over the subject matter and the parties to this proceeding under sections 120.569, 120.57(1), and 120.80(14), Florida Statutes.

43. By law, every person who engages in the business of selling items of tangible personal property at retail in the State is exercising a taxable privilege. § 212.05, Fla. Stat. Florida's sales and use tax is a tax on the privilege of engaging in business in the State. *Id. See also* § 212.05(1), Fla. Stat. ("for the exercise of such privilege, a tax is levied on each taxable transaction ... .").

44. Sales tax is imposed at the rate of six percent (plus the discretionary county sales surtax, when applicable) on the sales price of each item of tangible personal property sold. §§ 212.05(1)(a)1.a. and 212.054, Fla. Stat.

45. Sales tax is levied when items are sold at retail and is computed on each taxable sale for remitting the amount of tax due to the State. *Id.*

46. Sales and use tax become State funds at the time of collection by the retailer. § 213.756(1), Fla. Stat. Collected taxes are due to the Department on the first day of the succeeding month and are delinquent on the 21st day of the succeeding month. §§ 212.06(1)(a), 212.11(1)(b), 212.15(1), Fla. Stat.; Fla. Admin. Code R. 12A-1.056.

47. When a taxpayer, or here, the retail establishment, fails to timely remit sales taxes to the State, a penalty is added to the added tax owed in the amount of 10 percent of the unpaid taxes if the delay of remitting taxes is for not more than 30 days.

48. There is an additional 10 percent penalty for each additional 30 day period while the failure to remit taxes continues, not to exceed a total penalty of 50 percent in the aggregate of any unpaid tax due. § 212.12(2)(b), Fla. Stat.

49. A taxpayer's liability for a penalty that is more than 25 percent of the tax due must be compromised or reduced if the Department determines that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud. § 213.21(3)(a), Fla. Stat. In this case, the Department reduced the penalty to 25 percent of the tax assessed. RE6, at 001.

50. In addition to the penalty, interest must be added to the payment deficiencies, with the rate of interest established by section 213.235, Florida Statutes. *See also* § 212.12(5)(b), Fla. Stat. (requiring the Department to collect tax, interest and penalty stemming from an assessment of additional sales and use tax owed).

51. The term "dealer" means every person who sells tangible personal property ("TPP") at retail, or who offers TPP for sale at retail, or who has in his or her possession TPP for sale at retail, or for use, consumption or distribution or for storage to be used or consumed in this State. § 212.06(2)(c), Fla. Stat.

52. To properly administer and enforce the state tax laws, every business operating in Florida is required to maintain suitable books and records relating to its operation and tax obligations. This includes invoices, bills of lading and other pertinent records and papers. *See* §§ 212.13(2), 213.35, Fla. Stat.

53. Taxpayers must preserve their books and records until expiration of the time within which the Department is permitted to make an assessment of that tax. *Id. See also* § 95.091(3), Fla. Stat.

54. The Department may designate the records to be kept by all dealers for sales and use tax purposes. Dealers are required to keep suitable books and records of all sales and other records needed to determine the amount of tax due. All such books and records must be open to examination at reasonable hours to the Department. §§ 212.12(6)(a), 212.13, and 213.35, Fla. Stat.

55. The Department may inspect the records and accounts of all dealers subject to Florida's revenue laws imposed under chapter 212 and to request information to determine a dealer's tax liability. *Id.*

56. If an audit deficiency exists, the Department is allowed to make an assessment and collect it. §§ 20.21, 212.12(5)(a), 212.13, 213.05, and 213.34, Fla. Stat. Only records and information made available to the auditor when the audit commences are considered acceptable for conducting the audit. § 212.13(5)(c), Fla. Stat.

57. "Adequate records" consist of books, accounts and other records sufficient to permit a *reliable determination* of a tax deficiency or overpayment. Fla. Admin. Code R. 12-3.0012(3).

58. Petro was a "dealer" as defined under section 212.06, and was required to collect and remit sales tax to the State under the procedures outlined herein.

59. As a dealer, Petro was also responsible for maintaining suitable books and records of its taxable sales, and it needed to cooperate during the Department's audit and provide the auditor with reliable books and records. Petro inexplicably, and without good reason, failed to do so.

60. Section 212.12(5)(b) provides that when a taxpayer, such as Petro, fails to provide records "so that no audit or examination has been made of the books and records of the taxpayer," the Department has a duty to make an assessment based on the best information then available.

61. Section 212.12(5)(b) could not be any more clear, as more fully explained by the following:

> (b) In the event any dealer or other person charged herein fails or refuses to make his or her records available for inspection so that no audit or examination has been made of the books and records of such dealer or person, ... then, in such event, it shall be the duty of the department to make an assessment from an estimate *based upon the best information then available to it* for the

> taxable period of retail sales of such dealer ... . Then the department shall proceed to collect such taxes, interest, and penalty on the basis of such assessment *which shall be considered prima facie correct*, and the *burden to show the contrary shall rest upon the dealer*, seller, owner, or lessor, as the case may be.

(Emphasis added).

62. Notably, subsection (b) further provides that such an assessment "shall be considered prima facie correct, and the burden to show the contrary shall rest upon the [taxpayer]." *See also A&S Ent., LLC v. Dept. of Rev.*, 282 So. 3d 905, 909 (Fla. 3d DCA 2019) (after the taxpayer failed to provide business records, the Department completed the assessment using the taxpayer's federal tax return for one year of the audit period to estimate sales and use tax owed for the entire audit period). *Id.* at 907, 909.

63. In *A&S Entertainment*, the Third District affirmed the Department's estimated assessment, holding the assessment to be prima facie correct where the taxpayer failed to prove that the assessment was incorrect.

64. As stated, under the express and clear provisions of section 212.12(5)(b), the Department's assessment is prima facie correct under circumstance where the taxpayer fails to provide records. For Petro to overcome this determination, it had to demonstrate, by a preponderance of the evidence, that the assessment was incorrect. *See* § 212.12(5)(b), Fla. Stat.; *IPC Sports, Inc. v. Dep't of Rev.*, 829 So. 2d 330, 332 (Fla. 3d DCA 2002).

65. The persuasive and credible evidence adduced at the final hearing revealed that Petro failed and refused to make its records available to the Department during the audit and the informal protest. Moreover, the hearsay, and very limited, unpersuasive and unsubstantiated evidence offered by Petro at the hearing, did not provide sufficient evidence to rebut or overcome this finding.

66. Based upon the reasoning outlined in *Higgs v. Good*, 813 So. 2d 178, (Fla. 3d DCA 2002), the undersigned granted Respondent's Motion in Limine

and ruled that any documentary evidence that might be offered by Petro at the final hearing was not received in evidence because Petro did not comply with the Department's requests for documents during the audit and informal protest.[4] In short, a taxpayer cannot, after the fact, tender documents during a final hearing that were not originally provided when requested. *Higgs,* 813 So. 2d at 178.

67. As Petro failed to provide the Department with any records, the Department estimated the assessment on the best information available– which was Petro's ABT wholesaler reported data of reported purchases, together with the Department's historical data of average markup rates and percentage of taxable sales from the audits of similar Florida dealers.

68. Applying the provisions of section 212.12(5)(b), the penalty assessment made by the Department was correctly determined, and Respondent failed to rebut this determination with any persuasive or credible evidence. As a result, the Department's penalty assessment stands as correct.

RECOMMENDATION

Based on the foregoing findings of fact and the conclusions of law, it is RECOMMENDED that the Department of Revenue enter a final order denying United Petro VII, Inc.'s requests for relief and sustaining the assessment at issue in its entirety.

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[4] Moreover, Petro did *not* make any proffer of this evidence at the hearing, thereby waiving its right to complain.

DONE AND ENTERED this 8th day of May, 2023, in Tallahassee, Leon County, Florida.

ROBERT L. KILBRIDE
Administrative Law Judge
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Filed with the Clerk of the
Division of Administrative Hearings
this 8th day of May, 2023.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.