

**Probable Cause Affidavit
Florida Department of Financial Services, Fraud Division
Case Number: 15-1885**

Defendant: Genaro Espinal

Race: H **Sex:** M **DOB:** 11/10/1967 **SSN:** [REDACTED]

Height: 5'10" **Weight:** UNK **Hair:** BLK **Eyes:** BRN

Florida Driver License: E215-280-67-4108-0

Address: 11751 SW 1st Street Plantation, FL 33325

Charge Description:

Florida Statute 440.105(4)(a)(8) for knowingly violating a Stop Work Order

Florida Statute 440.105(4)(3)(a) working without obtaining Workers' Compensation Insurance

Victim: State of Florida

PREDICATION:

This investigation is based upon a referral from the State of Florida Bureau of Compliance Division of Workers' Compensation. The referral stated Genaro Espinal of Genaro's Corporation failed to comply with a Stop Work Order lawfully issued by DWC.

INVESTIGATION:

On August 27, 2014, Investigator Peter Sileo of the State of Florida Bureau of Compliance conducted a Workers' Compensation (WC) compliance check at King Foods & Meat Bazaar located at 1000 36th Street, West Palm Beach Florida 33407. This check was in reference to a Bureau of Compliance Lead List which stated the store employed more than four (4) employees and workers' compensation coverage could not be identified. Upon entering King Foods & Meat Bazaar, Investigator Sileo observed five (5) workers conducting various tasks throughout the store. He made contact with the Manager Roberto Espinal and explained to him (Espinal) the purpose of the visit. Espinal stated he would have to speak to the owner Genaro Espinal about the issue. Investigator Sileo made contact with Genaro Espinal via telephone. Espinal acknowledged that his workers' compensation policy had been canceled, but was in the process of reinstating it. Investigator Sileo contacted Underwriter Jordan Cason of Guarantee Insurance Company who confirmed the policy was canceled and that there was no information of any reinstatement action. Mr. Cason also stated that the policy would not be reinstated regardless.

On September 2, 2014, Investigator Sileo personally served Genaro Espinal the Stop Work Order (SWO) 14-324-D2, Notice of Rights (NOR), and Business Records Request(BRR) at the

compliance district office.

On September 3, 2014 a workers' compensation policy was verified and the SWO was released. Espinal was told by Investigator Sileo that release was based on his agreement to remit any additional penalty in full or to remit periodic payment of the remaining penalty amount. Espinal was also reminded that the requested business records were required to be submitted by September 16, 2014 to avoid imputation of the penalty. An Agreed Order of Conditional Release from Stop-Work Order was signed and issued.

On September 23, 2014, Investigator Sileo met with Espinal and served him the Amended order of Penalty Assessment (AOPA), Notice of Rights, On-line Payment Letter and a copy of the Penalty Calculation Worksheet. Espinal agreed to enter into a 60-month Payment Agreement Schedule for Period Payment of Penalty.

On August 03, 2015, the SWO was reinstated because Espinal had not adhered to the terms and conditions of the Agreed Order of Conditional Release from Stop-Work Order, meaning Espinal stopped paying the monthly payment.

On November 16, 2015, Investigator Sileo went back to King Foods & Meat Bazaar pursuant to a Bureau of Compliance Lead list which stated the store did not have any workers' compensation coverage. Upon entering the location, Sileo was greeted by Espinal. Sileo also observed additional employees throughout the store working. Investigator Sileo advised Espinal that he was in violation of Florida Statute 440.107(7)(c) by conducting business during a SWO, and all business needed to stop until the SWO was released, too which Espinal stated he understood.

On December 09, 2015, the State of Florida Department of Financial Services, Division of Insurance Fraud (DIF) received a referral from State of Florida Bureau of Compliance Division of Workers Compensation (DWC).

On November 3, 2016, Former DIF Detective Bob Daniels drove through the parking lot of Genaro's, 1000 36 Street West Palm Beach, and observed the business to be open. Detective Daniels did not enter the business at this time but took A photograph of the exterior.

On November 10, 2016 at approximately 11:20 a.m., Former Detective Daniels went inside the grocery store, Genaro Corporation, dba King Food & Meat Bazaar, at 1000 36th Street, West Palm Beach. The store was open for business with customers shopping and making purchases. Detective Daniels observed two cashiers, two butchers in the meat department, and a bookkeeper. He also met with Mr. Genaro Espinal at the rear of the store near the meat section. Detective Daniels advised Mr. Espinal that he is prohibited from being open since there is an active stop work order that was reinstated on August 25, 2015. Detective Daniels asked Mr. Espinal if he ever closed his business since November, 2015 (the date that Compliance

Investigator Sileo found Genaro Corporation open for business in violation of the SWO/11-16-15). Mr. Espinal responded, "No". Detective Daniels repeated the question to make sure Mr. Espinal understood and the response was still "No".

On March 20, 2017, Your Affiant conducted initial review of the TIP and case. A check of the Division of Corporations revealed Genaro's Corporation (65-0677830) is an active corporation showing GENARO ESPINAL as the president/resident agent.

On April 10, 2017, Your Affiant travelled to Genaro Corporation, dba King Food & Meat Bazaar, at 1000 36th Street, West Palm Beach to verify if the business was still open. Your Affiant observed multiple vehicles in the parking lot. The interior lights of the business were on and there were patrons walking in and out of the store.

Your Affiant then met with Bureau of Compliance Investigations Supervisor Odileinis Gibson and obtained a notarized affidavit attesting that the information on the DWC reports are true and correct to the best of her knowledge and belief.

On April 11, 2017, Your Affiant met CIA Lori Welsh who verified through CCAS that Genaro's Corporation Workers' Compensation policy was cancelled on April 11, 2017.

On May 1, 2017, Your Affiant was informed by Investigations Supervisor Odileinis Gibson with the Bureau of Compliance, Workers' Compensation that On April 25, 2017, a jobsite visit was conducted and the business was found open with 9 employees, at which time a 2nd WIV was issued: Case 14-324-D2-WV. A previous "Working in Violation" was issued on November 11, 2015. The employer still owes the department a balance of \$8,779.74, with no payments made since February 2, 2015; case 14-324-D2. Employer continues to work in violation of the reinstated SWO.

On May 8, 2017, Mr. Espinal met with Supervisor Gibson at the Bureau of Compliance and was personally served a 2nd Working in violation notice (WIV), notice of rights form, and updated penalty calculation worksheet.

Based upon the information gathered during this investigation and outlined above, Your Affiant, Detective Lent believes there is probable cause Genaro Espinal violated Florida State Statute 440.105(4)(a)8 for knowingly violating a Stop Work Order issued by the Department on multiple occasions.

Based upon the information gathered during this investigation and outlined above, Your Affiant, Detective Lent believes there is probable cause Genaro Espinal violated Florida State Statute 440.105(4)(3)(a) by engaging in work within the State of Florida, when he did not have a valid Florida workers' compensation policy pursuant to FSS 440.38.

Your Affiant requests a Capias be issued charging Genaro Espinal for two counts of 440.105(4)(a)8 and one count of 440.105(4)(3)(a)

SWORN TO AND SUBSCRIBED BEFORE ME
THIS 10 DAY OF May, 2017 A.D.

[Signature] *Detective*
I-463
NOTARY PUBLIC OR LAW ENFORCEMENT
OFFICER CONDUCTING OFFICIAL POLICE
INVESTIGATION. (Ref. Sec. 117.10 F.S.)

[Signature]
AFFIANT SIGNATURE

Jonathan Lent
AFFIANT NAME

5/10/17
DATE