BEFORE THE INDUSTRIAL ACCIDENT BOARD

OF THE STATE OF DELAWARE

SMILY ESTEVAM,) !	
Claimant,)	
v. MARCELO SILVA, D/B/A GIRAFA CONSTRUCTION and WM COMPANY, INC.,)	1342877 Hearing No. 1 343991
Employers.)	

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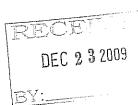
ORDER UPON INSURANCE COVERAGE HEARING

WHEREAS, Claimant, a Delaware resident, has filed a Petition to Determine Compensation Due alleging that he was injured in a compensable work-related accident which occurred on September 2, 2009 while he was employed by Marcelo Silva, d/b/a Girafa Construction ("Girafa"), in which Claimant fell off of a house located at the "Bayside" resort property in Selbyville, Delaware; and

WHEREAS, at the time of the September 2, 2009 accident, Girafa was hired as a carpentry and cement subcontractor for WM Company, Inc. ("WM"), the general contractor assigned to the "Bayside" construction project; and

WHEREAS, on September 10, 2009, Marcelo Silva executed an affidavit swearing under oath that at the time of Claimant's accident, Claimant was an employee of Girafa; and

WHEREAS, at the time of the September 2, 2009 accident, Girafa was insured by a policy of worker's compensation insurance issued by the Pennsylvania State Workers' Insurance Fund ("PASWIF") under policy number 05675357; and



WHEREAS, Claimant presented a claim for the injuries he sustained in the September 2, 2009 accident to PASWIF; and

WHEREAS, on September 15, 2009, PASWIF denied Claimant's claim on the basis that Claimant did not meet the statutory definition of a Pennsylvania employee entitled to extraterritorial Pennsylvania worker's compensation coverage set forth by 77 P.S. § 411.2; and

WHEREAS, on December 17, 2009, the Industrial Accident Board convened a Hearing to determine whether Girafa was insured by Delaware worker's compensation insurance at the time of Claimant's September 2, 2009 accident, and whether it is currently so insured, and due notice of the Hearing was provided to Girafa and WM; and

WHEREAS, Girafa failed to appear at the December 17, 2009 Hearing and failed to present evidence that it was insured by a policy of Delaware worker's compensation coverage at the time of Claimant's September 2, 2009 accident and ongoing, as required by 19 Del. C. § 2371 et seq.; and

NOW, THEREFORE, upon consideration of the testimony and argument presented at the Hearing, the Industrial Accident Board hereby finds as follows:

- (a) Girafa failed to carry Delaware worker's compensation insurance at the time of Claimant's September 2, 2009 accident.
- (b) Girafa is hereby fined for its failure to carry Delaware worker's compensation insurance at the time of Claimant's September 2, 2009 accident, in the amount of \$250.00 per day commencing October 16, 2009, and continuing until proof of current Delaware worker's compensation insurance is provided to the Department of Labor; and

(c) Girafa is hereby **ORDERED** to post a bond in the amount of \$40,000.00 against Claimant's past, present, and future medical expenses, temporary total disability, and other worker's compensation benefits, said bond to be posted within twenty (20) days of the date of this Order.

It is **SO ORDERED** this 17 day of Darmer, 2009.

Board Member

Board Member

Date of Mailing: 12-18-09 (年)