

4-30-02

STATE OF FLORIDA
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

FILED
02 JUN 18 PM 1:32
DIVISION OF
ADMINISTRATIVE
HEARINGS

AT

Andy D. Andrews, d/b/a
A.D. Andrews Nursery,

Petitioner,

vs

DOAH CASE NO. 02-0215
LB CASE NO. 02-0028
FINAL ORDER

P.S.L. Landscape Services, Inc., and
Cumberland Casualty and Surety Company,

SFD-CLOS

Respondents.

FINAL ORDER

THIS CAUSE, arising under Florida's "Agricultural License and Bond Law" (Sections 604.15-604.34), Florida Statutes, came before the Commissioner of Agriculture of the State of Florida for consideration and final agency action. On November 13, 2001, the Petitioner, Andy D. Andrews, d/b/a A.D. Andrews Nursery, a producer of agricultural products as defined by Section 604.15 (5), Florida Statutes, timely filed an administrative complaint pursuant to Section 604.21, Florida Statutes, to collect \$4,208.20 for trees he sold to Respondent, a licensed dealer in agricultural products. Respondent's license for the time in question was supported by a bond required by Section 604.20, Florida Statutes, written by Cumberland Casualty and Surety Company in the amount of \$10,000. The Respondent filed a response to the complaint wherein they disputed the claim as being valid. A hearing was not requested by the Respondent, but was requested by the Department due to disputed issues of fact. Therefore, this matter was referred to the Division of Administrative Hearings (DOAH) for an administrative hearing in accordance with the provisions of Section 120.57 (1), Florida

Statutes. An administrative hearing was scheduled in this matter for March 21, 2002. The Administrative Law Judge ("Judge") rendered his Recommended Order on April 30, 2002, a copy of which is attached hereto as Exhibit A, to which neither party filed written exceptions with this Department.

Upon the consideration of the foregoing and being otherwise fully advised in the premises, it is

ORDERED:

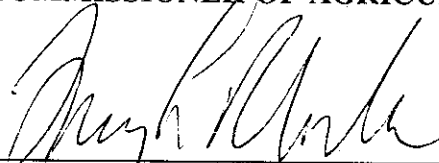
1. The Judge's findings of fact are adopted in toto as this agency's findings of fact.
2. The Judge's conclusions of law are adopted in toto as this agency's conclusions of law.
3. The Judge's Recommendation is modified to reflect that Respondent, P.S.L. Landscape Services, Inc., pay Petitioner \$4,208.20 within fifteen (15) days after this Order becomes final. This Order is final and effective on the date filed with the Clerk of the Department. The Judge's Recommendation is further modified to stipulate that in the event Respondent fails to pay Petitioner \$4,208.20 within fifteen (15) days of the Final Order, Cumberland Casualty and Surety Company, as Surety for Respondent is hereby ordered to provide payment under the conditions and provisions of the Bond, to, **CHARLES H. BRONSON, COMMISSIONER OF AGRICULTURE AND CONSUMER SERVICES**, as Obligee on the Bond. **Should responsibility for payment evolve to the Surety, Cumberland Casualty and Surety Company will notified by this office.**

Any party to these proceedings adversely affected by this Final Order is entitled to seek review of this Order pursuant to Section 120.68, Florida Statutes, and Rule 9.110, Florida Rules of Appellate Procedure. Review proceedings must be instituted by filing a petition or notice of appeal with the Agency Clerk, 5th Floor, Mayo Building, Tallahassee, FL 32399-

0800. A copy of the petition for review or notice of appeal, accompanied by the filing fees prescribed by law must also be filed with the appropriate District Court of Appeal within thirty (30) days of the date this Order was filed with the Agency Clerk.

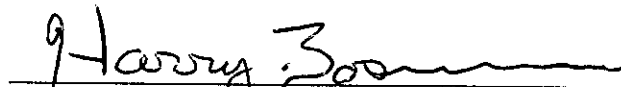
DONE AND ORDERED this th 17 day of June, 2002.

CHARLES H. BRONSON
COMMISSIONER OF AGRICULTURE



TERRY L. RHODES
Assistant Commissioner of Agriculture

Filed with Agency Clerk this th 17 day of June, 2002.


Agency Clerk

COPIES FURNISHED TO:

Mr. Andy D. Andrews, d/b/a
A.D. Andrews Nursery
P.O. Box 1126
Chiefland, FL 32644

Mr. George Kijewski, Vice-President
P.S.L. Landscape Services, Inc.
P.O. Box 9421
Port St. Lucie, FL 34985

Cumberland Casualty & Surety Company
Attn: Ms. Deborah A. Meek, Claim Dept.
4311 W. Waters Avenue, Ste. 401
Tampa, FL 33614

Judge Stephen F. Dean, Administrative Law Judge
Division of Administrative Hearings
The DeSoto Bldg., 1230 Apalachee Parkway
Tallahassee, FL 32399-3060

Messrs. Jim Brook & Jim New
Field Representatives