

11-27-02

STATE OF FLORIDA
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

FILED
03 FEB 13 AM 11:44
DIVISION OF
ADMINISTRATIVE
HEARINGS

William E. Gable, Jr., d/b/a
Gable Enterprises,

AT

Petitioner,

DOAH CASE NO. 02-1443
LB CASE NO. 03-0001
FINAL ORDER

vs

Ynnor Distribution Group, Inc., and
Fidelity & Deposit Company of Maryland,

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 January 14, 2002, the Petitioner, William E. Gable, Jr., d/b/a Gable Enterprises, 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 \$13,430.02 for watermelons 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 Fidelity & Deposit Company of Maryland in the amount of \$10,000, increased to \$100,000 effective March 12, 2001. Respondent's answer denied the claim as valid, admitted an indebtedness of \$10,265.84 and requested a hearing. 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 June 21, 2002. The Administrative Law Judge (“Judge”) rendered his Recommended Order on November 27, 2002, a copy of which is attached hereto as Exhibit A, to which neither party filed written exceptions with this Department.

The record consists of this Department’s file in this matter.

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, Ynnor Distribution Group, Inc., pay Petitioner \$13,430.02 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 \$13,430.02 within fifteen (15) days of the Final Order, Fidelity & Deposit Company of Maryland, as Surety for Respondent is hereby ordered to provide payment under the conditions and provisions of the Bond to **CHARLES H.**

BRONSON, COMMISSONER OF AGRICULTURE AND CONSUMER SERVICES, as Obligee on the Bond. **Should responsibility for payment evolve to the Surety, Fidelity & Deposit Company of Maryland will be 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.

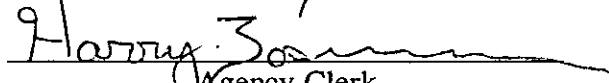
DONE AND ORDERED this 12th day of February, 2003.

CHARLES H. BRONSON
COMMISSIONER OF AGRICULTURE



TERRY I. RHODES
Assistant Commissioner of Agriculture

Filed with Agency Clerk this 12th day of February, 2003.


Agency Clerk

COPIES FURNISHED TO: SEE ATTACHED

COPIES FURNISHED TO:

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Gable Enterprises
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(Certified No. 7160 3901 9842 2060 2828)

Mr. Robert L. Lawrence, Registered Agent
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(Certified No. 7160 3901 9842 2060 2842)

Ms. Kathy Alves, Claims Specialist
Fidelity & Deposit Company of Maryland
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Mr. Ronald S. Booth, Sr., Director
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Mr. Ronald S. Booth, Sr., Registered Agent
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Judge Stephen F. Dean, Administrative Law Judge
Division of Administrative Hearings
The DeSoto Bldg., 1230 Apalachee Parkway
Tallahassee, FL 32399-3060

All Field Representatives