

STATE OF FLORIDA
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

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ADMINISTRATIVE
PH12-10

Skinner Nurseries, Inc.

Petitioner,

VS

DOAH CASE NO. 03-3538
LB CASE NO. 04-0005
FINAL ORDER

A & R Landscaping & Lighting, Inc., and
Old Republic Surety Company,

CCA-CLDS

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 July 11, 2003, the Petitioner, Skinner Nurseries, Inc., as Agent for producers of agricultural products as defined by Section 604.15(4), Florida Statutes, timely filed an administrative complaint pursuant to Section 604.21, Florida Statutes, to collect \$28,097.10 for nursery plants and trees they 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 Old Republic Surety Company in the amount of \$15,000. The Respondent's answer denied the claim as 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 for an administrative hearing in accordance with the provisions of Section 120.57(1), Florida Statutes. An administrative hearing was scheduled in this matter on

November 21, 2003. The Administrative Law Judge (“Judge”) rendered his Recommended Order on December 18, 2003, 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 except that: Conclusion of Law #14 incorrectly cites Section 604.21(10), Florida Statutes, as the statutory section that pertains to the period of time within which the Complainant had to file a claim against the Respondent. That conclusion of law is modified to cite Section 604.21(1), Florida Statutes, as the correct citation of law.
3. The Judge’s recommendation that the Respondent, A & R Landscaping & Lighting, Inc., pay Petitioner \$28,097.10 for purposes of mailing this Order consistent with the requirements of Sections 604.21(7) and (8), Florida statutes. The Judge’s recommendation is modified to include that payments shall be made within fifteen (15) days after this Order becomes final is adopted. In the event Respondent fails to pay Petitioner \$28,097.10 within fifteen (15) days of the Final Order, Old Republic 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. The Department will notify the Surety in the event

it (the Surety) is required to pay. This Order is final and effective on the date filed with the Clerk of the Department.

Any party to these proceedings adversely affected by this Final Order is entitled to seek review of this Final Order pursuant to Section 120.68, Florida Statutes (2002) and Rule 9.110, Florida Rules of Appellate Procedure (2003). 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 27th day of January, 2004.

CHARLES H. BRONSON
COMMISSIONER OF AGRICULTURE


TERRY L. RHODES
Assistant Commissioner of Agriculture

Filed with Agency Clerk this 27th day of January, 2004.


Agency Clerk

COPIES FURNISHED TO:

Judge Charles C. Adams
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, FL 32399-3060

Mr. Donald M. DuMond, CFO
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Jacksonville, FL 32257
(Certified No. 7160 3901 9842 6067 4731)

Ms. Rita J. Robinson, President/Registered Agent
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Ms. Alice Hunt, Credit Administrator
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Mr. Michael A. Jankowski, Registered Agent
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Messrs. Jim New and Carlos Hernandez, Field Representatives