

6-9-04

STATE OF FLORIDA
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

FILED
2004 JUL 30 A 10:55
DEPARTMENT OF AGRICULTURE
AND CONSUMER SERVICES
TALLAHASSEE, FLORIDA

Bent Oak Farm, Inc.

Petitioner,

vs

AT

TKW-CLOS

DOAH CASE NO. 04-0432
LB CASE NO. 04-0018
FINAL ORDER

Above All Lawn Care & Landscaping, Inc., and
Hartford Fire Insurance Company,

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 October 27, 2003, the Petitioner, Bent Oak Farm, Inc., 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 \$6,507.68 for 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 Hartford Fire Insurance Company in the amount of \$4,999. Subsequent to the Department's entry of its Order, the Respondent filed an ANSWER OF RESPONDENT to the complaint wherein they denied the claim as valid and admitted to an indebtedness of zero. 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 held in this matter on April 14, 2004. During the hearing, a settlement agreement was reached by the parties. On April 15, 2004, the Judge issued an ORDER PLACING CASE IN ABEYANCE, and on May 18, 2004, the Judge issued a second NOTICE OF HEARING. An Administrative Hearing was held in this matter on June 3, 2004. The Administrative Law Judge ("Judge") rendered his Recommended Order on June 9, 2004, 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:

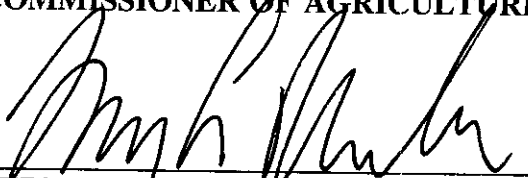
1. The Judge's findings of fact are adopted in toto as this agency's findings of fact.
2. The Judge's conclusions of law are adopted in toto as this agency's conclusions of law.
3. The Judge's recommendation that the Respondent, Above All Lawn Care & Landscaping, Inc. pay Petitioner \$6,494.90 is hereby adopted. For purposes of this Final Order consistent with the requirements of Sections 604.21(7) and (8), Florida Statutes, payments shall be made within fifteen (15) days after this Final Order is adopted. In the event Respondent fails to pay Petitioner \$6,494.90 within fifteen (15) days of the Final Order, Hartford Fire Insurance 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 28th day of July, 2004.

**CHARLES H. BRONSON
COMMISSIONER OF AGRICULTURE**



TERRY L. RHODES
Assistant Commissioner of Agriculture

Filed with Agency Clerk this 28th day of July, 2004.



Agency Clerk

COPIES FURNISHED TO:

Judge T. Kent Wetherell, II
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, FL 32399-3060

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