

BEFORE THE COMMISSIONER OF AGRICULTURE  
STATE OF FLORIDA

FILED

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DIVISION OF  
ADMINISTRATIVE  
HEARINGS

RE: John Stephens, Inc.,  
Petitioner,

vs.

CITRUS CASE NO. 3328.66,  
FINAL ORDER  
DOAH CASE NO. 04-2279  
AGENCY CLERK #A40359

C & J Fruit & Melons, Inc., a licensed  
Citrus Fruit Dealer during the  
2001 - 2002 citrus shipping season,  
Respondent,

and

Auto Owners Insurance Company,  
Co-Respondent.

FINAL ORDER

THIS CAUSE, arising under "the Florida Citrus Code" (Chapter 601, Florida Statutes), came before the Commissioner of Agriculture of the State of Florida for consideration and final agency action. On April 21, 2003, Petitioner, John Stephens, Inc., a citrus dealer, filed a written complaint against Respondent, C & J Fruit & Melons, Inc., a licensed citrus fruit dealer with the Department pursuant to Section 601.66, Florida Statutes. The complaint alleged Respondent's indebtedness to Petitioner in the amount of \$18,857 for citrus fruit purchased from Petitioner. Respondent's license for the subject shipping season is supported by a surety bond written by Auto Owners Insurance Company pursuant to Section 601.66, Florida Statutes. Respondent filed a response with attachments during the period

provided by the rules denying the claim as valid. Co-Respondent acknowledged receipt of the complaint, but did not contest the complaint nor request a hearing. On June 28, 2004, the Department referred this matter to the Division of Administrative Hearings (DOAH) to conduct a formal hearing. A formal hearing was scheduled in this matter for September 9, 2004, however, the scheduled hearing was cancelled and re-scheduled for October 8, 2004. DOAH held a formal hearing on October 8, 2004 and the Administrative Law Judge ("Judge") rendered his **RECOMMENDED ORDER** on December 29, 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 AND ADJUDGED:**

1. The Judge's Findings of Fact are adopted in toto as this Agency's Findings of Fact.
2. The Judge's Conclusion of Law is adopted in toto as this Agency's Conclusion of Law.
3. The Judge's **RECOMMENDATION** is accordingly modified to reflect that the Respondent, C & J Fruit & Melons, Inc., pay Petitioner \$18,857 within thirty (30) days from the rendition of this Final Order. In the event Respondent does not comply with this Final Order within thirty (30) days, Auto Owners Insurance Company, as Co-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 Oblige on the Bond to be held for distribution pursuant to the Florida Citrus Code. **Should responsibility for**

payment evolve to the Co-Respondent, Auto Owners Insurance Company will be notified by this office.

This Final Order is effective on the date filed with the Clerk of the Department.

**NOTICE OF RIGHTS**

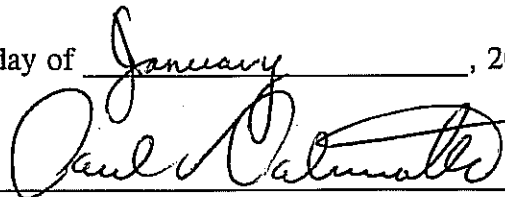
Any party to these proceedings adversely affected by this Final Order is entitled to seek review of this Final Order pursuant to Section 120.68, Florida Statutes, and Rule 9.110, Florida Rules of Appellate Procedures. Review proceedings must be instituted by filing a petition or notice of appeal with the Agency Clerk in the Legal Office, Room 515, Mayo Building, Tallahassee, Florida 32399-0800. A copy of the petition for review or notice of appeal, accompanied by the filing fees as prescribed by law must also be filed with the appropriate District Court of Appeal within thirty (30) days of rendition of this Final Order.

**DONE AND ORDERED** at Tallahassee, Leon County, Florida, this 9<sup>th</sup> day of January, 2006.

**CHARLES H. BRONSON**  
**COMMISSIONER OF AGRICULTURE**

  
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**TERRY L. RHODES**  
Assistant Commissioner of Agriculture

Filed with Agency Clerk this 9<sup>th</sup> day of January, 2006.

  
\_\_\_\_\_  
Agency Clerk

**COPIES FURNISHED TO: SEE ATTACHED**

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Administrative Law Judge  
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