

11-3-04

STATE OF FLORIDA
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

FILED

2004 DEC -9 P 1:40

DIVISION OF
ADMINISTRATIVE
HEARINGS

Bobby Williams, d/b/a
Bobby Williams Farms

Petitioner,

vs

AT

DOAH CASE NO.: 04-2881
LB CASE NO.: 04-0013, ORDER
LB CASE NO.: 04-0027
FINAL ORDER
AGENCY CLERK #A34514

DSM
CWS

Dal Don Produce, Inc., and
Fidelity & Deposit Company of Maryland,

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 December 26, 2003, the Petitioner, Bobby Williams, d/b/a Bobby Williams Farms, 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 \$5,956.60 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 \$100,000. On January 27, 2004

a Notice of Filing of a Complaint was mailed to Respondent and Co-Respondent. The Respondent did not file an answer to the complaint or request a hearing. The Co-Respondent acknowledged the complaint in a letter to the Department, but did not contest the matter or request a hearing. Subsequent to the Department's entry of its Order, the Respondent 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 October 1, 2004. The Administrative Law Judge ("Judge") rendered his Recommended Order on November 3, 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:

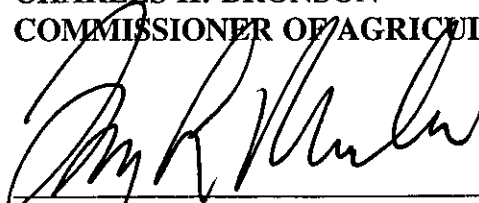
1. The Judge's findings of fact are adopted in toto as this agency's findings of fact.
2. The Judge's conclusions of law are adopted in toto as this agency's conclusions of law.
3. The Judge's recommendation that the Respondent, Dal Don Produce, Inc., pay Petitioner \$5,956.60 is hereby adopted. For 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 \$5,956.60 within fifteen (15) days of the Final Order, Fidelity and 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, 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 Final Order is 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 7th day of December, 2004.

**CHARLES H. BRONSON
COMMISSIONER OF AGRICULTURE**



TERRY L. RHODES
Assistant Commissioner of Agriculture

Filed with Agency Clerk this 7th day of December, 2004.



Agency Clerk

COPIES FURNISHED TO:

Judge Daniel Manry, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, FL 32399-3060

Ms. C. Catherine Bloebaum, President, Dal Don Produce, Inc., P. O. Box 120036, Clermont, FL 34712-0036
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Ms. C. Catherine Bloebaum, Registered Agent, Dal Don Produce, Inc., 12210 Lakeshore Drive, Clermont, FL 34711 (Certified Mailing No. 7160 3901 9848 7795 7531)

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Mr. Robert L. Lawrence, Registered Agent, Fidelity & Deposit Company of Maryland, 3910 Keswick Road, Baltimore, MD 21211 (Certified Mailing No. 7160 3901 9848 7795 7579)

Ms. Kathy Alves, Claims Specialist, Zurich North America Commercial Surety Claim Division, 3910 Keswick Road, 5th Floor, Baltimore, MD 21203 (Claim No.: 638 0038727 KA) (Certified Mailing No. 7160 3901 9848 7795 7586)

Mr. Bobby Williams, d/b/a Bobby Williams Farms, 5005 Placid View Drive, Lake Placid, FL 33582
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All Field Representatives