

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

HUTCHINSON GROVES, INC., )  
 )  
 Petitioner, )  
 )  
 vs. ) Case No. 05-4392  
 )  
 THE CITRUS STORE AND FIDELITY )  
 AND DEPOSIT COMPANY OF )  
 MARYLAND, AS SURETY, )  
 )  
 Respondents. )  
 \_\_\_\_\_ )

SUMMARY RECOMMENDED ORDER

Pursuant to notice, the above-styled matter was convened before Lawrence P. Stevenson, Administrative Law Judge of the Division of Administrative Hearings, on February 2, 2006, in Sebring, Florida. The following appearances were entered:

APPEARANCES

For Petitioner: William Hutchinson, President, pro se  
Hutchinson Groves, Inc.  
1323 Edgewater Point Drive  
Sebring, Florida 33870

For Respondent The Citrus Store:

Anthony W. Surber, Esquire  
Harbsmeier, DeZayas, Harden &  
DeBari, L.L.P.  
5116 South Lakeland Drive  
Lakeland, Florida 33813

For Respondent Fidelity and Deposit Company of Maryland:

(No appearance)

STATEMENT OF THE ISSUE

Whether Respondent, The Citrus Store, a citrus fruit dealer, owes Petitioner, Hutchinson Groves, Inc., a grower of Florida citrus products, a sum of money for citrus fruit harvested from Petitioner's groves.

SUMMARY DISPOSITION

On or about December 16, 2003, Petitioner, Hutchinson Groves, Inc., filed a complaint with the Florida Department of Agriculture and Consumer Services (the "Department"), alleging that Respondent, The Citrus Store, owes Petitioner the sum of \$27,117.59, for oranges harvested from Petitioner's groves by Respondent pursuant to a written contract. Respondent conceded that it owed some lesser amount to the owner of the groves in question. However, the matter was complicated by the fact that, subsequent to the execution of the contract with Respondent, Petitioner had sold those groves to a third party who also asserted a claim to the proceeds from the sale of the fruit to Respondent. The matter was the subject of litigation in the Circuit Court of the Tenth Judicial Circuit, in and for Highlands County (Case No. GC-02-587), which caused the Department to delay forwarding the matter to the Division of Administrative Hearings until December 2, 2005. The case was assigned to the undersigned and set for hearing on February 2, 2006.

The hearing was convened as scheduled. Prior to the taking of testimony, the parties discussed settlement of the matter. At the conclusion of their discussions, the parties stipulated: that the Division of Administrative Hearings has jurisdiction over this matter and the parties thereto pursuant to Section 120.569 and Subsection 120.57(1), Florida Statutes (2005); that, at all times relevant to this proceeding, Petitioner was a "producer" pursuant to Subsection 601.03(29), Florida Statutes; that, at all times relevant to this proceeding, The Citrus Store was a "citrus fruit dealer" pursuant to Subsection 601.03(8), Florida Statutes; that Respondent owes Petitioner \$27,117.59 for the oranges harvested from Petitioner's groves; and that no interest would be sought or assessed against Respondent on the principal amount owing to Petitioner.

Based on the foregoing stipulations, it is

RECOMMENDED that a final order be entered requiring Respondent, The Citrus Store, to pay to Petitioner, Hutchinson Groves, Inc., the principal sum of \$27,117.59, without interest.

DONE AND ENTERED this 8th day of February, 2006, in  
Tallahassee, Leon County, Florida.

*Lawrence P. Stevenson*

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LAWRENCE P. STEVENSON  
Administrative Law Judge  
Division of Administrative Hearings  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 8th day of February, 2006.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the final order in this case.