

BEFORE THE COMMISSIONER OF AGRICULTURE
STATE OF FLORIDA

RE: Lionel LaGrow,
Petitioner,

vs.

Chapman Fruit Company, a licensed
Citrus Fruit Dealer during the
2003 - 2004 citrus shipping season,
Respondent,

and

The Ohio Casualty Insurance Company,
Co-Respondent.

2007 DEC 17 A 11: 19
DIVISION OF
ADMINISTRATIVE
HEARINGS
CITRUS CASE NO. CLB-0006
FINAL ORDER
DOAH CASE NO. 06-3219
AGENCY CLERK #A53057

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 February 1, 2005, Petitioner, Lionel LaGrow, a citrus grower, filed a written complaint against Respondent, Chapman Fruit Company, 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 \$13,853 for citrus fruit purchased from complainant. Respondent's license for the subject shipping season is supported by a surety bond written by The Ohio Casualty Insurance Company pursuant to Section 601.66, Florida Statutes. Respondent filed an ANSWER OF RESPONDENT during the period provided by the rules denying the claim as valid and admitted an indebtedness of zero. Co-Respondent acknowledged receipt of the complaint, but did not contest the complaint nor requested a hearing.

On August 23, 2006, the Department referred this matter to the Division of Administrative Hearings ("DOAH") to conduct a formal hearing. DOAH issued a NOTICE OF HEARING on September 15, 2006 and scheduled a hearing in this cause for October 31, 2006. A DOAH hearing was held on October 31, 2006, however, the Petitioner, Lionel LaGrow failed to appear at the scheduled hearing. The Administrative Law Judge ("ALJ") entered a RECOMMENDED ORDER OF DISMISSAL ("Order") in this matter on November 6, 2006. The ALJ's Order was based on the burden of proof in this case being on the Petitioner and the Petitioner's failure to appear at the hearing to prove his case. In a letter dated November 16, 2006, the Petitioner filed timely written Exceptions to DOAH's Order with the Department. The Petitioner's Exceptions contends that they did not receive the NOTICE OF HEARING issued on September 15, 2006. On November 29, 2006, the Department forwarded the Petitioner's written Exceptions to the Order to the ALJ with DOAH. Because the Exceptions raise factual issues as to whether Petitioner received the NOTICE OF HEARING dated September 15, 2006 to be held on October 31, 2006. The Department requested that DOAH resolve the factual issue as to whether Petitioner received the NOTICE OF HEARING. On January 10, 2007, DOAH issued a NOTICE OF HEARING for a hearing in this matter to be held on January 22, 2007. On February 22, 2007, DOAH issued an ORDER RESCINDING THE RECOMMENDED ORDER OF DISMISSAL AND REOPENING CASE and ordered that the RECOMMENDED ORDER OF DISMISSAL be rescinded and the case is re-opened for the purpose of conducting a final hearing on the issue raised in Petitioner's complaint. On April 13, 2007, DOAH issued a NOTICE OF HEARING for a hearing to be held in this cause for June 12, 2007. On June 8, 2007 DOAH entered an ORDER GRANTING CONTINUANCE AND RE-SCHEDULING HEARING based on the Respondent's June 8, 2007 ore tenus motion to continue. DOAH granted the Respondent's motion and the hearing scheduled for June 12, 2007 was canceled and a new hearing was re-

scheduled for July 31, 2007. The ALJ issued her RECOMMENDED ORDER on November 7, 2007, a copy of which is attached hereto as "Exhibit A". No Exceptions were filed.

Upon review of the record and being otherwise fully advised in the premises, it is:

ORDERED AND ADJUDGED:

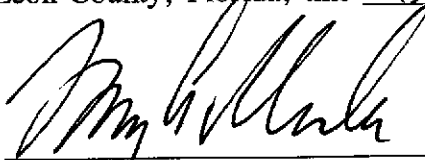
The ALJ's RECOMMENDATION that the Department enter a Final Order dismissing Petitioner's complaint is hereby adopted, therefore, the captioned complaint is dismissed and no further action by the Department will be taken.


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 ^{an} 13 day of December, 2007.


TERRY L. RHODES
Assistant Commissioner of Agriculture

Filed this ^{an} 13 day of December, 2007 with 
Agency Clerk

COPIES FURNISHED TO:

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