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DIVISION OF  
ADMINISTRATIVE  
HEARINGS

STATE OF FLORIDA  
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Sturon, Inc.,

Petitioner,

vs

DOAH CASE NO. 06-4890  
LB CASE NO.: 07-0019,  
FINAL ORDER  
AGENCY CLERK #A50241

Garden World of Holiday, Inc., d/b/a  
Garden World

And

Platte River Insurance Company,

Respondents.

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**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, 2006, the Petitioner, Sturon, Inc., a producer of agricultural products as defined by Section 604.15(9), Florida Statutes, timely filed an administrative claim pursuant to Section 604.21, Florida Statutes, to collect \$97,443.98 for tropical foliage plants 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 Platte River Insurance Company in the amount of \$15,000 and subsequently increased to \$100,000 effective January 12, 2006. On November 8, 2006, a Notice of Filing of an Amended Complaint (Claim) was mailed to Respondent and Co-Respondent.

On November 27, 2006, the Respondent filed an ANSWER OF RESPONDENT with attachments wherein they denied the claim as being valid, admitted no indebtedness and 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 January 23, 2007. On January 24, 2007, the Administrative Law Judge ("Judge") with DOAH issued an ORDER GRANTING CONTINUANCE based on an ore tenus Motion by the Respondent's counsel. The request for a continuance was asked for at the commencement of the January 23, 2007 hearing. For a number of reasons, the hearing was continued several times, and ultimately, a NOTICE OF HEARING BY VIDEO TELECONFERENCE was scheduled for June 7, 2007. The hearing in this cause was recommenced on June 7, 2007 and the Judge issued his RECOMMENDED ORDER on July 9, 2007 and recommended that the Department enter a Final Order directing the Respondent pay the Petitioner the total of \$97,393.98. The Judge further recommended the Department provide for such other procedures as are appropriate to provide for satisfaction of the debt.

Section 604.21(1)(a) states in part, "... Before a complaint can be processed, the complainant must provide the department with a \$50 filing fee. In the event the complainant is successful in proving the claim, the dealer in agricultural products shall reimburse the complainant for the \$50 filing fee as part of the settlement of the claim". After including the filing fee, the amount owed by Respondent to Petitioner is \$97,443.98.

Section 604.21(7), Florida Statutes states that "Any indebtedness set forth in a departmental order against a dealer shall be paid by the dealer within 15 days after such order

becomes final". Section 604.21(8), Florida Statutes requires that upon failure of a dealer to comply with an order that directs payment the Department shall call upon the surety company to pay over to the Department out of the posted bond the amount called for in the order of the Department. Therefore, the Department must enter a Final Order that requires the Respondent and Surety pay Petitioner the adjudged indebtedness of \$97,443.98 inclusive of the filing fee. A copy of the Judge's RECOMMENDED ORDER issued on July 9, 2007, 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:**

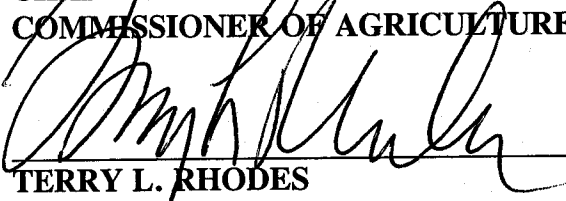
1. The Judge's FINDINGS OF FACT are adopted as this agency's Findings of Fact.
2. The Judge's CONCLUSIONS OF LAW are adopted as this agency's Conclusions of Law and the Respondent shall pay the complaint filing fee as provided by law.
3. Accordingly, Respondent shall pay Petitioner, Sturon, Inc., the amount of \$97,443.98. The ordered payment shall be made within fifteen (15) days after this Final Order is adopted. In the event Respondent fails to pay Petitioner \$97,443.98 within fifteen (15) days of the Final Order, Platte River 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 Agency 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, 5<sup>th</sup> 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 13<sup>th</sup> day of August, 2007.

CHARLES H. BRONSON  
COMMISSIONER OF AGRICULTURE

  
TERRY L. RHODES  
Assistant Commissioner of Agriculture

Filed with Agency Clerk this 13<sup>th</sup> day of August, 2007.

  
Paula Calmuto  
Agency Clerk

**COPIES FURNISHED TO:**

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Administrative Law Judge  
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