

Certified Article Number
7160 3901 9848 2605 1433
SENDERS RECORD

FILED

**STATE OF FLORIDA
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

2009 JUL 24 A 10:42
DIVISION OF
ADMINISTRATIVE
HEARINGS

Landscape Nursery, Inc.,

Petitioner,

vs

**DOAH CASE NO. 09-1602
LB CASE NO.: 09-0056,
FINAL ORDER
AGENCY CLERK #A62927**

**DWL, Designing Women Landscaping, Inc., d/b/a
Designing Women Landscaping and Nursery,**

And

Nova Casualty Company,

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 February 13, 2009, the Petitioner, Landscape Nursery, Inc., a Producer of Florida agricultural products as defined Section 604.15(9), Florida Statutes, timely filed an administrative claim pursuant to Section 604.21, Florida Statutes, to collect \$4,924.40 for nursery plants they sold to Respondent, a licensed dealer in agricultural products. Respondent's license for the time in question was supported by a surety bond required by Section 604.20, Florida Statutes, written by Nova Casualty Company in the amount of \$100,000. The Respondent's answer denied the claim as valid and admitted to an indebtedness of \$3,604.20. A hearing was not requested by the Respondent, but was requested by the Department due to disputed issues of fact. 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. On April 9, 2009, DOAH issued a NOTICE OF HEARING and a hearing in this cause was scheduled for May 8, 2009. On April 26, 2009, the Administrative Law Judge ("Judge") issued an ORDER GRANTING CONTINUANCE AND RE-SCHEDULING HEARING and the hearing was re-scheduled for May 22, 2009. Prior to the commencement of the hearing, the parties discussed a settlement of the matter and ultimately concluded that the Respondent owes the Petitioner \$3,033.84 and that no further interest would be sought after against the Respondent. Accordingly, the Judge rendered his SUMMARY RECOMMENDED ORDER ("SRO") on May 29, 2009 stipulating the amount of the settlement. A copy of which is attached hereto as EXHIBIT "A", to which neither party filed written exceptions with this Department.

Upon the consideration of the foregoing and being otherwise fully advised in the premises, it is

ORDERED:

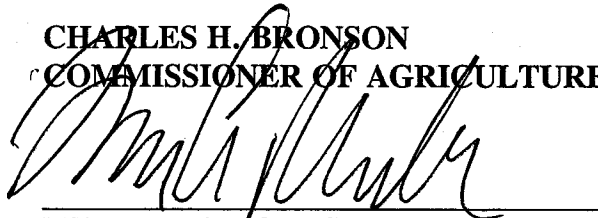
The Petitioner notified the Department that they received payments from the Respondent, thereby reducing the claimed indebtedness to \$2,816.84. The Judge's Recommendation is modified to reflect that Respondent, DWL, Designing Women Landscaping, Inc., d/b/a Designing Women Landscaping and Nursery, pay Petitioner \$2,816.84 within fifteen (15) days after this Order become final. This Order is final and effective on the date filed with the Clerk of the Department. The Judge's Recommendation is further modified to stipulate that in the event Respondent fails to pay Petitioner \$2,816.84

within (15) days of the Final Order, Nova Casualty 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, 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 Final Order was filed with the Agency Clerk.

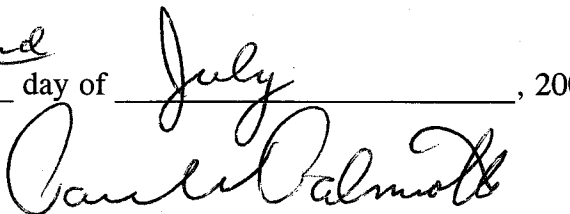
DONE AND ORDERED this 22nd day of July, 2009.

CHARLES H. BRONSON
COMMISSIONER OF AGRICULTURE



TERRY L. RHODES
Assistant Commissioner of Agriculture

Filed with Agency Clerk this 22nd day of July, 2009.



Agency Clerk

COPIES FURNISHED TO:

Judge Lawrence P. Stevenson
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(Certified Receipt No. 7160 3901 9848 2605 1433)

Mr. Joseph Shay
DWL, Designing Women Landscaping, Inc., d/b/a
Designing Women Landscaping and Nursery
6275 West State Road 46
Sanford, FL 32771
(Certified Receipt No. 7160 3901 9848 2605 1488)

Ms. Susan Hallett, Registered Agent
DWL, Designing Women Landscaping, Inc., d/b/a
Designing Women Landscaping and Nursery
6275 West State Road 46
Sanford, FL 32771
(Certified Receipt No. 7160 3901 9848 2605 1457)

Nova Casualty Company
726 Exchange Street, Suite 1020
Buffalo, New York 14210
(Certified Receipt No. 7160 3901 9848 2605 1464)

Ms. Gail Hess, Corporate Secretary
Landscape Nursery, Inc.
1955 S. Apopka Vineland Road
Orlando, FL 32835
(Certified Receipt No. 7160 3901 9848 2605 1471)

Mr. Bedford Wilder
General Counsel Staff
Mayo Building, M-11
Tallahassee, Florida 32399-0800

Mr. Jim New, Field Representative