

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

LANDSCAPE NURSERY, INC.,                    )  
  )  
    Petitioner,                                )  
  )  
vs.    )     Case No. 09-1602  
  )  
DESIGNING WOMEN LANDSCAPING,            )  
INC. AND NOVA CASUALTY COMPANY,        )  
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 May 22, 2009, in Orlando, Florida.

APPEARANCES

For Petitioner: Gail Hess, Principal  
Landscape Nursery, Inc.  
1955 South Apopka Vineland Road  
Orlando, Florida 32835

For Respondent Designing Women Landscaping, Inc.:

Joseph Shay, Principal  
Designing Women Landscaping and Nursery  
6275 West State Road 46  
Sanford, Florida 32771

For Respondent Nova Casualty Company:

(No appearance)

STATEMENT OF THE ISSUE

Whether Respondent, Designing Women Landscaping, Inc. (Respondent), a dealer in agricultural products, owes Petitioner, Landscape Nursery, Inc. (Petitioner), a producer of Florida agricultural products, a sum of money for plants purchased from Petitioner's nursery.

SUMMARY DISPOSITION

On or about February 27, 2009, Petitioner filed an amended complaint with the Florida Department of Agriculture and Consumer Services (the "Department"), alleging that Respondent owes Petitioner the sum of \$4,924.40, for plants delivered from Petitioner's nursery to Respondent's place of business. Respondent conceded that it owed some amount to the Petitioner, but prior to the hearing the parties could not agree on the amount owed. The Department forwarded the case to the Division of Administrative Hearings on March 27, 2009. The case was assigned to the undersigned and initially set for hearing on May 8, 2009. One continuance was granted, and the hearing was re-scheduled for May 22, 2009.

The hearing was convened as re-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 (2009); that, at all times relevant to this proceeding, Petitioner was a "producer" pursuant to Subsection 604.15(9), Florida Statutes (2009); that, at all times relevant to this proceeding, Respondent was a "dealer in agricultural products" pursuant to Subsection 604.15(2), Florida Statutes (2009); that Respondent owes Petitioner \$3,033.84 for plants delivered by Petitioner to Respondent; and, that no further interest would be sought or assessed against Respondent on the agreed principal amount owed to Petitioner.

Based on the foregoing stipulations, it is

RECOMMENDED that the Florida Department of Agriculture and Consumer Services enter a final order requiring Respondent, Designing Women Landscaping, Inc., to pay Petitioner, Landscape Nursery, Inc., the principal sum of \$3,033.84, without interest.

DONE AND ENTERED this 29th day of May, 2009, in Tallahassee, Leon County, Florida.



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LAWRENCE P. STEVENSON  
Administrative Law Judge  
Division of Administrative Hearings  
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1230 Apalachee Parkway  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 29th day of May, 2009.

COPIES FURNISHED:

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Honorable Charles H. Bronson  
Commissioner of Agriculture  
Department of Agriculture and  
Consumer Services  
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Susan Hallett  
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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.