

Certified Article Number

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SENDERS RECORD

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DIVISION OF  
ADMINISTRATIVE  
HEARINGS

STATE OF FLORIDA  
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Crown Harvest Produce Sales, LLC,

Petitioner,

DOAH CASE NOS.: 09-4719 and 09-4720

LB CASE NO.: 10-0057

vs

FINAL ORDER

AGENCY CLERK #A67709

American Growers, Inc.,

And

Lincoln General 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 June 15, 2009, the Petitioner, Crown Harvest Produce Sales, LLC, an Agent for producers of Florida agricultural products as defined by Section 604.15(10), Florida Statutes, timely filed an administrative claim pursuant to Section 604.21, Florida Statutes, to collect \$98,935.20 (including the \$50 claim filing fee); and on June 15, 2009, the Petitioner, Crown Harvest Produce Sales, LLC, a licensed dealer of Florida agricultural products as defined by Section 604.15(2), Florida Statutes, timely filed an administrative claim pursuant to Section 604.21, Florida Statutes, to collect \$19,147.70 (including the \$50 claim filing fee) for strawberries 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 Lincoln General Insurance Company in the amount of \$100,000. On July 14, 2009, a Notice of Filing of an Amended claim in each claim was mailed to Respondent and Co-Respondent.

On August 21, 2009, the Respondent, through their attorney filed an Answer of Respondent to both claims, wherein they stated each claim is invalid and hearings were requested. On August 25, 2009, the Department requested hearings on each claim with the Division of Administrative Hearings (DOAH). DOAH issued a separate Initial Order for each claim and assigned an individual case number to both claims. On September 28, 2009, DOAH issued an ORDER OF CONSOLIDATION, thereby consolidating the two cases. DOAH issued a NOTICE OF HEARING in the cases and scheduled a hearing for November 2 and 3, 2009. DOAH issued an ORDER GRANTING CONTINUANCE on October 21, 2009, consequently, the hearing scheduled for November 2 and 3, 2009 was cancelled. The Administrative Law Judge (ALJ) with DOAH requested that the Respondent contact the Petitioner to confer and advise him [ALJ] in writing no later than December 7, 2009 as to the status of the matter. The Petitioner's attorney filed numerous documents with DOAH; which for the most part, were request to compel discovery from the Respondent. DOAH issued an ORDER TO SHOW CAUSE AND COMPEL DISCOVERY on December 17, 2009, wherein the Respondent was ordered to show good cause as to why they failed to reply to the Petitioner's numerous requests to compel discovery. The Respondent was given until January 4, 2010 to respond to the ALJ's order. After additional pleadings and filing of documents by the parties, DOAH issued a NOTICE OF HEARING for a hearing in this matter for May 6 and 7, 2010. On May 4, 2010,

the Petitioner and Respondent filed a STIPULATION FOR ENTRY OF RECOMMENDED ORDER with DOAH. In said document, the parties stipulated to the entry of an attached Recommended Order in this cause and waived their rights to offer evidence and any right or request for a hearing. Accordingly, on May 5, 2010, DOAH entered an ORDER CANCELING HEARING and the hearing scheduled for May 6 and 7, 2010 was cancelled. On May 18, 2010, the ALJ issued his RECOMMENDED ORDER (RO), 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:**

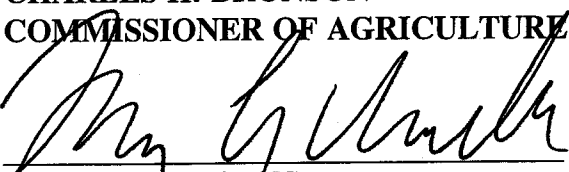
1. The ALJ's FINDINGS OF FACTS are adopted in toto as this agency's Findings of Facts.
2. The ALJ's CONCLUSIONS OF LAW are adopted in toto as this agency's Conclusions of Law.

For purposes of this Final Order consistent with the requirements of Sections 604.21(7) and (8), Florida Statutes, the ALJ's RECOMMENDATION is modified to include that payment shall be made by the Respondent to the Petitioner in the amounts of \$19,147.70 (including the \$50 claim filing fee) in DOAH CASE NO.: 09-4719 and \$98,935.20 (including the \$50 claim filing fee) in DOAH CASE NO.: 09-4720 within fifteen (15) days after this Final Order is adopted. In the event Respondent fails to pay Petitioner the total amount of \$118,082.90 within fifteen (15) days of the Final Order, Lincoln General 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 Final Order was filed with the Agency Clerk.

DONE AND ORDERED this 16<sup>th</sup> day of August, 2010.

**CHARLES H. BRONSON**  
**COMMISSIONER OF AGRICULTURE**  
  
**TERRY L. RHODES**  
Assistant Commissioner of Agriculture

Filed with Agency Clerk this 16<sup>th</sup> day of August, 2010.

  
Agency Clerk

COPIES FURNISHED TO:

Judge Jeff B. Clark  
Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, FL 32399-3060  
(Certified Receipt No. 7160 3901 9848 8029 0625)

Mr. Glenn C. Thomason, Registered Agent  
American Growers, Inc.  
P. O. Box 1207  
Loxahatchee, FL 33470  
(Certified Receipt No. 7160 3901 9848 8029 0618)

Mr. Glenn C. Thomason, President  
American Growers, Inc.  
14888 Horseshoe Trace  
Wellington, FL 33414  
(Certified Receipt No. 7160 3901 9848 8029 4142)

Ms. Rene Herder, Surety Bond Claims  
Lincoln General Insurance Company  
4902 Eisenhower Blvd., Suite 155  
Tampa, FL 33634  
(Certified Receipt No. 7160 3901 9848 8029 0601)

Katy Koestner Esquivel, Esquire  
Meuers Law Firm, P. L.  
5395 Park Central Court  
Naples, FL 34109  
(Certified Receipt No. 7160 3901 9848 8029 4159)

Mr. Mike Piscitelli, Attorney  
Vezina, Lawrence and Piscitelli  
Attorney for Lincoln General Insurance Company  
300 SW First Avenue, Suite 150  
Ft. Lauderdale, FL 33301  
(Certified Receipt No. 7160 3901 9848 8029 4166, Claim No.: 905-794)

Steven Hall, Attorney  
Florida Department of Agriculture and Consumer Services, Suite 520  
Mayo Building, M-11  
Tallahassee, FL 32399-0800

Mr. Mark Moritz and Mr. Brad Robson, Field Representatives