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DIVISION OF  
ADMINISTRATIVE  
HEARINGS

STATE OF FLORIDA  
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Dixie Growers, Inc.,

Petitioner,

VS

DOAH CASE NO. 09-6251  
LB CASE NO.: 10-0040  
FINAL ORDER  
AGENCY CLERK #A66928

American Growers, Inc.,

And

Lincoln General Insurance 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 August 26, 2009, the Petitioner, Dixie Growers, Inc., 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 \$176,869.20 (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 September 2, 2009, a Notice of Filing of an Amended Claim was mailed to Respondent and Co-Respondent. The September 2, 2009 certified claim mailing to

the Respondent was returned by the United States postal service on October 5, 2009 marked "UNCLAIMED". A second certified mailing was sent by the Department to the Respondent at another address of record on October 9, 2009 and it was received by the Respondent on October 23, 2009. On November 10, 2009, the Respondent filed an ANSWER OF RESPONDENT with an attachment to the Department and requested a hearing. Accordingly, this case was referred to the Division of Administrative Hearings ("DOAH") for a administrative hearing in accordance with the provisions of Section 120.57(1), Florida Statutes. DOAH issued a NOTICE OF HEARING on December 2, 2009 for a hearing to be held on February 25, 2010. The hearing was held with DOAH on February 25, 2010 and the Administrative Law Judge (the "ALJ") entered her RECOMMENDED ORDER ("R.O.") on March 24, 2010, 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 Department adopts the ALJ's R.O. in toto including the following technical corrections to the R.O.:

1. In the caption on page one (1) of the R.O. the Respondent is shown as America Growers, Inc. and it should read American Growers, Inc.
2. On page one (1), paragraph (1) of the R.O., it states Counsel for Respondent, the witness and court reporter appeared ... . It should read Counsel for Petitioner, the witness and court reporter appeared ... .

3. On page two (2) under PRELIMINARY STATEMENT, paragraph (2), it states Petitioner filed a response on the Department's form titled, ... . It should read Respondent filed a response on the Department's form titled ... .

4. On page three (3) under FINDINGS OF FACT, paragraph number one (1), it states; Petitioner, Dixie Growers, Inc., is a producer of agricultural products in Florida, i.e., strawberries. It should read; Petitioner, Dixie Growers, Inc., is an Agent for the Producer(s) of agricultural products in Florida, i.e., strawberries.

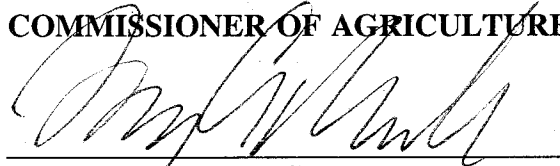
5. On page five (5), paragraph eleven (11), under CONCLUSIONS OF LAW, it states; Petitioner is a "producer" of agricultural products as defined in subsection 604.15(9), Florida Statutes. It should read; Petitioner is a "producer's agent" for the producer(s) of agricultural products as defined in subsection 604.15(10), Florida Statutes.

The ALJ's recommendation that the Respondent, American Growers, Inc., pay Petitioner, \$176,819.20 and the \$50 filing fee is hereby adopted. 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 within fifteen (15) days after this Final Order is adopted. In the event Respondent fails to pay Petitioner \$176,869.20 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 29<sup>th</sup> day of April, 2010.

**CHARLES H. BRONSON**  
**COMMISSIONER OF AGRICULTURE**



**TERRY L. RHODES**  
Assistant Commissioner of Agriculture

Filed with Agency Clerk this 29<sup>th</sup> day of April, 2010.



Agency Clerk

COPIES FURNISHED TO:

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