

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

Universal Tree Farm LLC,

Petitioner,

vs

DOAH CASE NO. 10-0498
LB CASE NO.: 10-0047,
FINAL ORDER
AGENCY CLERK #A67490

Quality by Design, Inc.,

And

The Ohio Casualty 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 December 17, 2009, the Petitioner, Universal Tree Farm LLC, a producer of Florida 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 \$2,216.75 for trees 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 The Ohio Casualty Insurance Company in the amount of \$100,000. The Respondent's answer requested a reduction in the amount of the claim 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. On February 9, 2010,

DOAH issued a NOTICE OF HEARING BY VIDEO TELECONFERENCE and a hearing in this cause was scheduled for March 15, 2010. The Respondent's counsel filed a MOTION OF CONTINUANCE with DOAH dated February 11, 2010. Accordingly, on February 12, 2010, DOAH issued an ORDER GRANTING CONTINUANCE AND RE-SCHEDULING HEARING BY VIDEO TELECONFERENCE and the hearing was re-scheduled for March 19, 2010. An administrative hearing with DOAH was held on March 19, 2010 and the Administrative Law Judge (ALJ) issued his RECOMMENDED ORDER on April 14, 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:

1. The ALJ's FINDINGS OF FACT are adopted in toto as this agency's Findings of Fact.

2. The ALJ's CONCLUSIONS OF LAW are adopted in toto as this agency's Conclusions of Law.

3. The following technical correction is made to the ALJ's RECOMMENDED ORDER:

In the caption on page one (1) of the RECOMMENDED ORDER, the Petitioner is shown as Universal Tree Farms, LLC and it should read Universal Tree Farm LLC.

4. For purposes of this Final Order consistent with the requirements of Sections 604.21(7) and (8), Florida Statutes, payment shall be made within fifteen (15) days after this Final Order is adopted. In the event Respondent fails to pay Petitioner \$2,216.75 within

fifteen (15) days of the Final Order, The Ohio Casualty Casualty 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, 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 3rd day of June, 2010.

CHARLES H. BRONSON
COMMISSIONER OF AGRICULTURE

Charles H. Bronson

Filed with Agency Clerk this 3rd day of June, 2010.

Paul Calumoto

Agency Clerk

COPIES FURNISHED TO:

Judge Stuart M. Lerner
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

Sergio Cruz, Esquire
245 Southeast First Street, Suite 214
Miami, FL 33131-1933

Mr. Douglas G. Tribbe
The Ohio Casualty Insurance Company
136 North Third Street
Hamilton, OH 45025
(Claim No.: HO BD 09-009901)

Mr. Ivan Caro, Managing Member
Universal Tree Farm LLC
2497 Fawn Drive
Loxahatchee, FL 33470

Mr. James M. Watson, Registered Agent
Quality by Design, Inc.
1105 Lake Nettie Drive
Eustis, FL 32726

Ms. Nora Garcia, Accounts Payables Clerk
Quality by Design, Inc.
38115 Yale Circle
Leesburg, FL 34788-7704

Steven Hall, Attorney
Florida Department of Agriculture and Consumer Services
Mayo Building, M12
Tallahassee, FL 32399-0800

Mr. Jim New and Mr. Larson Phipps, Field Representatives