

Certified Article Number

7196 9008 9111 1798 1420

SENDERS RECORD

STATE OF FLORIDA
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Vila and Son Nursery Corp.,

Petitioner,

vs

DOAH CASE NO. 11-3995
LB CASE NO.: 11-0097
FINAL ORDER
AGENCY CLERK #A75647

Vila and Son Landscaping Corp.,

And

Westfield Insurance Company,

Respondents.

2011 DEC 16 P 12:27
DIVISION OF
ADMINISTRATIVE
HEARINGS
FILED

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.

I. BACKGROUND

On July 6, 2011, the Petitioner, Vila and Son Nursery Corp., a producer of 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 \$146,472.71 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 Co-Respondent, Westfield Insurance Company, in the amount of \$100,000. On July 27, 2011, a Notice of Filing of an Amended Claim was mailed to Respondent and Co-

Respondent. On August 3, 2011, Co-Respondent filed a NOTICE OF APPEARANCE OF COUNSEL AND RESPONSE AND DENIAL OF CLAIM ("Notice"), via fax on August 3, 2011. Co-Respondent, in their Notice denied the claim in toto and noted that if the claim is not summarily dismissed, they request a hearing. Based on the Notice provided by the Co-Respondent, this matter was referred to the Division of Administrative Hearings ("DOAH") on August 5, 2011 for the scheduling of an administrative hearing in accordance with the provisions of Section 120.57(1), Florida Statutes. DOAH scheduled an administrative hearing in this cause for September 14, 2011. The scheduled hearing convened on September 14, 2011, with Co-Respondent, Westfield Insurance Company, appearing through counsel; however, neither the Petitioner/Claimant nor the Respondent appeared for the hearing after being duly notified. Accordingly, the Administrative Law Judge ("ALJ") issued a RECOMMENDED ORDER OF DISMISSAL, a copy of which is attached hereto as EXHIBIT "A," to which neither party filed written exceptions with this Department.

II. FINDINGS OF FACT

1. The Commissioner of Agriculture adopts the findings of fact made by the ALJ in his recommended Order in that Petitioner/Claimant failed to appear at the hearing and present evidence in support of its claim.

III. CONSLUSIONS OF LAW

2. The Commissioner of Agriculture adopts the conclusions of law made by the ALJ in his recommended Order, attached hereto.

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

ORDERED AND ADJUDGED:

That the claim filed by Petitioner/Claimant, Vila and Son Nursery Corp., is hereby dismissed and the file is closed without further action.

NOTICE OF RIGHT TO APPEAL

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.

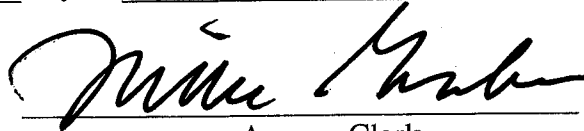
DONE AND ORDERED this 15th day of December, 2011.

ADAM H. PUTNAM
COMMISSIONER OF AGRICULTURE

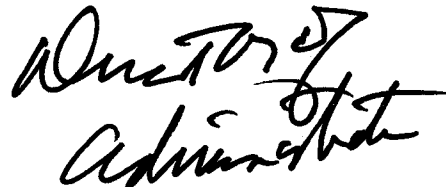


Mike Joyner
Assistant Commissioner of Agriculture

Filed with Agency Clerk this 15th day of December, 2011.



Agency Clerk



COPIES FURNISHED TO:

Judge John G. Van Laningham
Administrative Law Judge
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