

STATE OF FLORIDA
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Certified Article Number

7196 9008 9111 4897 0349

SENDERS RECORD

Action Sod and Landscape, LLC,

Petitioner,

vs.

DOAH CASE NO. 12-1967
LB CASE NO.: 12-0032
FINAL ORDER
AGENCY CLERK #A81037

Terra Bella and Associates, Inc.,

And

Great American Insurance Company,

Respondents.

DIVISION OF
ADMINISTRATIVE
HEARINGS

2013 JUN 3 AM 11 09

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 February 22, 2012, the Petitioner, Action Sod & Landscape, LLC, 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 \$16,806.20 for sod 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 Great American Insurance Company in the amount of \$52,000. On

April 18, 2012, the Respondent and Co-Respondent were sent via certified mail a Notice of Filing of an Amended Claim. On May 17, 2012, the Respondent filed a timely **ANSWER OF RESPONDENT** and denied the claim as valid, admitted to a claimed indebtedness of \$0 and attached copies of executed liens. The Co-Respondent filed a letter to the Department acknowledging receipt of the claim, but did not contest the matter nor request a hearing. Because there were disputed issues of fact involved in the claim, the Department requested that a DOAH hearing be held in this matter. On August 17, 2012, a **HEARING BY VIDEO TELCONFERENCE** was held. The Administrative Law Judge ("ALJ") found in favor of the Respondent and issued a **RECOMMENDED ORDER** on September 5, 2012, a copy of which is attached hereto, to which neither party filed written exceptions with the Department. The ALJ recommended that the Department enter a Final Order dismissing the claim.

The Record consists of all notices, pleadings, motions, intermediate rulings, evidence admitted and matters officially recognized, proposed findings, stipulations of the parties and the Recommended Order.

II. FINDINGS OF FACT

1. The Commissioner of Agriculture adopts the findings of fact made by the ALJ in her recommended order.

III. CONCLUSIONS OF LAW

2. In Paragraph 16 of her recommended order, the ALJ provided support from Section 604.16, Florida Statutes, for the conclusion of law that "Dealers in agricultural products are required to be licensed by the Department." The Department notes that such requirement is found in Section 604.17, Florida Statutes.

3. Otherwise, the Commissioner of Agriculture adopts the conclusions of law made by the ALJ in her recommended order, attached hereto.

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

ORDERED AND ADJUDGED:

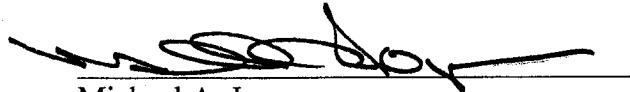
That the Petitioner's amended claim is hereby dismissed.

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 27th day of December, 2012.

ADAM H. PUTNAM
COMMISSIONER OF AGRICULTURE



Michael A. Joyner
Assistant Commissioner of Agriculture

Filed with Agency Clerk this 27th day of December, 2012.



Agency Clerk

COPIES FURNISHED TO:

Judge June C. McKinney
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

Ms. Barbara Callado, President
Action Sod and Landscape, LLC
Post Office Box 833143
Miami, FL 33283-3143

Mr. Dan Hurrelbrink, Financial Products Claims Adjuster
Great American Insurance Company
580 Walnut Street
Post Office Box 2119
Cincinnati, OH 45201-3180

Ms. Theresa Swenson, Registered Agent
Terra Bella and Associates, Inc.
18385 Lake Bend Drive
Jupiter, FL 33458

Mr. Dennis Hall, President
Terra Bella and Associates, Inc.
Post Office Box 22397
Hialeah, FL 33002

Mr. Ritchie McIntosh
Terra Bella and Associates, Inc.
11001 NW 140th Street
Hialeah Gardens, FL 33018

Jared Gardner, Attorney
Florida Department of Agriculture and Consumer Services
Mayo Building, M-11
Tallahassee, Florida 32399-0800

Mr. Larson Phipps, Field Representative