

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

EAST WEST CITRUS PACKERS, LLC,)
C/O GUILLERMO VAZQUEZ,)
)
Petitioner,)
)
vs.) Case No. 13-1184
)
DEPARTMENT OF CITRUS,)
)
Respondent.)
_____)

RECOMMENDED ORDER OF DISMISSAL

On May 30, 2013, an administrative hearing in this case was conducted by videoconference in Lakeland and Tallahassee, Florida, before William F. Quattlebaum, Administrative Law Judge, Division of Administrative Hearings.

APPEARANCES

For Petitioner: No Appearance

For Respondent: Joseph P. Mawhinney, Esquire
Reed and Mawhinney, P.L.
1611 Harden Boulevard
Lakeland, Florida 33803-1826

PRELIMINARY STATEMENT

By letter dated March 13, 2013, the Department of Citrus (Respondent) notified East West Citrus Packers, LLC (Petitioner), that the Petitioner's application for licensure as a citrus fruit dealer had been reviewed and that the Respondent would recommend to the Florida Citrus Commission that the application be denied.

The letter advised the Petitioner that the recommendation could be challenged in an administrative proceeding. The Petitioner requested an administrative hearing. The Respondent forwarded the request to the Division of Administrative Hearings (DOAH), which scheduled and conducted the proceeding.

At the time scheduled for commencement of the hearing on May 30, 2013, no one representing the Petitioner had arrived at the hearing location. The Respondent was represented by counsel, and the Respondent's identified witnesses were present.

The Respondent's counsel advised that he had communicated with representatives of the Petitioner who had indicated they would not attend the scheduled hearing. Because the Petitioner had filed nothing with DOAH indicating that it would not attend the hearing, the Administrative Law Judge delayed the hearing for 15 minutes to allow for the late arrival of the Petitioner or a representative, and then adjourned the hearing when none arrived.

The Notice of Hearing issued in this case advised that a failure to appear at the hearing could result in closure of the file without further proceedings.

Additionally, the Petitioner has the burden of establishing, by a preponderance of the evidence, entitlement to the licensure sought in this proceeding. Fla. Dep't of Transp. v. J.W.C. Co., Inc., 396 So. 2d 778 (Fla. 1st DCA 1981); Balino v. Dep't of HRS, 348 So. 2d 349 (Fla. 1st DCA 1977); and § 120.57(1)(j), Fla.

Stat. Because the Petitioner presented no evidence at the hearing in support of the application, the Petitioner failed to meet the burden of establishing entitlement to the licensure sought.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that the Department of Citrus enter a final order dismissing the application filed by the Petitioner for licensure as a citrus fruit dealer.

DONE AND ENTERED this 30th day of May, 2013, in Tallahassee, Leon County, Florida.

William F. Quattlebaum

WILLIAM F. QUATTLEBAUM
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 30th day of May, 2013.

COPIES FURNISHED:

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East West Citrus Packers, LLC
11860 Southwest 183rd Street
Miami, Florida 33177-2453

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.