

STATE OF FLORIDA  
FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

FILED

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MARIA RODRIGUEZ,

Petitioner,

vs.

UNITY GROVES CORPORATION,

and

FCCI INSURANCE COMPANY,

Respondents

DOAH CASE NO.: 13-2841  
LB CASE NO.: 13-0027  
FINAL ORDER  
AGENCY CLERK # A85843

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**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 May 15, 2013, the Petitioner, Maria Rodriguez, 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 \$1,371 (including the \$50 claim filing fee) for peppers sold to Respondent, a licensed dealer in agricultural products. Respondent's license for the time in question was supported by a surety bond as required by Section 604.20, Florida Statutes, written by FCCI Insurance Company, in the amount of \$80,000. On June 28, 2013, a notice of filing of an amended claim was mailed to the Respondent and Co-Respondent. On July 24, 2013, the Respondent filed a timely Answer of Respondent and refuted the claim. Therefore,

the Florida Department of Agriculture and Consumer Services (department) requested a hearing based on disputed issues of fact. Accordingly, this case 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. Jim Kisner, Surety Claim Manager of the Co-Respondent acknowledged receipt of the claim in a letter dated July 2, 2013, to the department and did not contest the matter or request a hearing. DOAH issued a Notice of Hearing by Video Teleconference on August 12, 2013, for a hearing to be held on September 25, 2013. The hearing was held on that date and the Administrative Law Judge (ALJ) entered her Recommended Order (R.O.) on October 10, 2013, to which neither party filed written exceptions.

The record consists of all notices, exhibits, proposed findings and the R.O.

## **II. FINDINGS OF FACT**

1. The R. O. contains the following technical errors, none of which has any bearing or effect on the outcome of this case; however, they are noted here to maintain consistency throughout the record:

- The cover page of the R.O. should also include the Co-Respondent's name as "FCCI Insurance Company".
- Page 2, Preliminary Statement, paragraph 1, "Department of Agriculture and Consumer Services", has been amended to read "Florida Department of Agriculture and Consumer Services".
- Page 2, Preliminary Statement, paragraph 2 should read the department advised the Respondents by Notice dated June 28, 2013, rather than both a letter and a notice.

- Page 6, Findings of Fact, paragraph 14, the “Anahie” peppers spelling error is corrected to “Anaheim”.

### III. CONCLUSIONS OF LAW

2. Within Paragraph 25, under Conclusions of Law, defining “producer” as “any grower of agricultural products produced in the state, rather than any “producer”.

- Within Paragraph 26, under Conclusions of Law, Section 604.20 (1) requires, as a condition of licensure, that each dealer in agricultural products provide a surety bond or certificate of deposit to the department.
- Within paragraph 27, under Conclusions of Law, reads “any person damaged by a breach of the conditions of the bond provided by a licensed dealer in agricultural products may file a complaint with the department against the dealer and/or the dealer’s surety.” Section 604.21(1)(a), Florida Statutes, reads “any person, partnership, corporation, or other business entity claiming to be damaged by any breach of the conditions of a bond or certificate of deposit assignment or agreement given by a dealer in agricultural products...”

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

#### **ORDERED AND ADJUDGED:**

The ALJ’s recommendation that the Respondent, Unity Groves Corporation, pay Petitioner \$1, 241 is hereby adopted. Full payment shall be made by Respondent to the Petitioner within fifteen (15) days after this Final Order is entered. In the event Respondent fails to pay Petitioner the total amount of \$1,241 (which includes the \$50 claim filing fee) within fifteen (15) days of the Final Order, FCCI Insurance Company, as Co-Respondent, is hereby

ordered to provide payment under the conditions and provisions of the bond to **ADAM H. PUTNAM, COMMISSIONER OF AGRICULTURE, 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.

**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, 5<sup>th</sup> Floor, Mayo Building, Tallahassee, Florida 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.

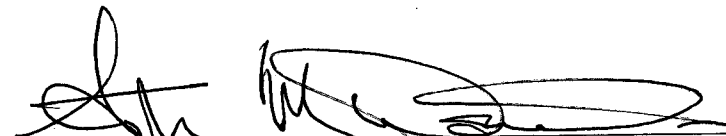
**DONE AND ORDERED** this 20<sup>th</sup> day of December, 2013.

ADAM H. PUTNAM  
COMMISSIONER OF AGRICULTURE



MICHAEL A. JOYNER  
Assistant Commissioner of Agriculture

Filed this 20<sup>th</sup> day of December, 2013.

  
Agency Clerk

COPIES FURNISHED TO:

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