

**FLORIDA DEPARTMENT OF AGRICULTURE
AND CONSUMER SERVICES**

HUNTSMAN TREE SUPPLIER, INC.,

Petitioner,

vs.

GREENWAY NURSERY, INC.,

and

AUTO OWNERS INSURANCE COMPANY,

Respondents.

DACS Case 1511-44996
DOAH Case No: 16-0064
Agency Clerk B01252
Amount of Claim: \$4,000.00

FILED
2016 MAY 10 AM 11 51
DIVISION OF ADMINISTRATIVE HEARINGS
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FINAL ORDER

THIS CAUSE, arising under the Florida 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. PRELIMINARY STATEMENT

The Petitioner, Huntsman Tree Supplier, LLC (Petitioner) in the above-captioned matter, is a producer of Florida agricultural products. The Petitioner sold 12 East Palatka holly trees to Greenway Nursery, Inc. (Respondent) on March 12, 2015; and one ligustrum, one slash pine, two live oaks and one cypress tree on June 23, 2015. On September 11, 2015, the Petitioner filed a complaint for non-payment against the Respondent totaling \$4,000, which includes the \$50 claim filing fee. The Notice of Filing of a Producer Claim, copies of the claim, and supporting evidence thereto were mailed by the Florida Department of Agriculture and Consumer Services (Department) to the Respondent's registered agent by UPS on October 21, 2015. The Respondent received notice of the claim on October 27, 2015. The Respondent replied to the

claim and requested a hearing. Notice of the claim was also sent to, Auto Owners Insurance Company (Co-Respondent), via UPS. The Co-Respondent received the notice of the claim on October 28, 2015. The Co-Respondent did not contest the matter or request a hearing.

The Department referred this matter to the Division of Administrative Hearings (DOAH) for an administrative hearing in accordance with the provisions of Section 120.57(1), Florida Statutes. A hearing was held on March 9, 2016, and the Administrative Law Judge (ALJ) entered a Recommended Order on April 12, 2016, a copy of which is attached hereto. Neither party filed written exceptions.

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

II. FINDINGS OF FACT

The Commissioner of Agriculture adopts the findings of fact made by the ALJ in the Recommended Order, attached hereto.

III. CONCLUSIONS OF LAW

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

Upon consideration of the foregoing, review of the record, and being otherwise fully advised in the premises,

IT IS ORDERED AND ADJUDGED that:

The Respondent, Greenway Nursery, Inc., shall pay the Petitioner, Huntsman Tree Supplier, Inc., the amount of \$4,000, to be paid within fifteen (15) days from the date this order becomes final. In the event that the Respondent does not comply with this order within fifteen (15) days from the date it becomes final, Auto Owners Insurance Company, as Co-Respondent

for the Respondent, is hereby ordered to provide payment under the conditions and provisions of the bond, to **ADAM H. PUTNAM, COMMISSIONER OF AGRICULTURE**, as Oblige on the bond. **Should responsibility for payment evolve to the Co-Respondent, Auto Owners Insurance Company will be notified by this office.**

NOTICE OF RIGHTS


Any party to these proceedings adversely affected by this Final Order is entitled to seek judicial review of this Final Order pursuant to Section 120.68, Florida Statutes, and Rule 9.110, Florida Rules of Appellate Procedure. Judicial review proceedings must be instituted by filing a Notice of Appeal with the Department's Agency Clerk, 407 South Calhoun Street, Suite 509, Tallahassee, Florida, 32399-0800, within thirty (30) days of rendition of this order. A copy of the Notice of Appeal must be filed with the Clerk of the appropriate District Court of Appeal accompanied by any filing fees prescribed by law.

DONE AND ORDERED at Tallahassee, Leon County, Florida, this 2nd day of May, 2016.

**ADAM H. PUTNAM
COMMISSIONER OF AGRICULTURE**


**MICHAEL A. JOYNER
Assistant Commissioner of Agriculture**

Filed, this 2nd day of May, 2016.



Agency Clerk

Copies Furnished to:

Judge Lawrence P. Stevenson, Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

Jimmy & Michelle Huntsman
Huntsman Tree Supplier, Inc.
13823 29th Road
Lake City, FL 32024

Brian Love
Greenway Nursery, Inc.
12091 Southeast 30th Street
Morrison, FL 32668

Auto Owners Insurance Company
c/o Bond Claim Department
6101 Anacapri Boulevard
Lansing, MI 48917-3988

and by hand-delivery to:

Amy Topol, Director
Division of Consumer Services