

FILED
2017 APR 21 PM 1:31
DIVISION OF
ADMINISTRATIVE HEARINGS

**FLORIDA DEPARTMENT OF AGRICULTURE
AND CONSUMER SERVICES**

**EMMITT KING, JR., D/B/A
KAD HARVESTING AND HAULING, LLC,**

Petitioner,

vs.

DELICIOUS CITRUS PACKING LLC.,

and

**PLATTE RIVER INSURANCE COMPANY,
AS SURETY**

Respondent and Co- Respondent.

DOAH CASE NO: 16-6841
DACS CASE NO.: 1610-41405
Agency Clerk Filing No.: B04333
Amount of Claim: \$47,210

FINAL ORDER

THIS CAUSE, arising under the Florida Citrus Code, Chapter 601 Florida Statutes, came before the Commissioner of Agriculture of the State of Florida for consideration and final agency action.

I. PRELIMINARY STATEMENT

The Petitioner, Emmitt King, Jr, d/b/a KAD Harvesting and Hauling, LLC (Petitioner) in the above-captioned matter, is a producer of Florida agricultural products. During the 2014-2015 season the Petitioner and Delicious Citrus Packing, LLC (Respondent) entered an agreement for the Petitioner to pick citrus fruit from various citrus groves and transport said fruit to Respondent to clean, wax, and grade the harvested fruit prior to selling the fruit to various retailers. The agreement continued into the 2015-2016 growing season. On September 30, 2016, Petitioner filed a complaint for non-payment against Respondent totaling \$54,367.00. The Respondent

earned a credit of \$2,486.00 which was applied to the outstanding balance bringing it down to \$47,210.00. 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 Respondent's registered agent by UPS on November 4, 2016. Delicious Citrus Packing, LLC, received the notice on November 7, 2016. In response to the claim the Respondent filed an Answer of Respondent denying the validity of the claim. Notice of the claim was also sent to Platte River Insurance Company (Co-Respondent), via USPS. Co-Respondent did not contest the matter or request a hearing contesting the matter.

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 February 13, 2017, and the Administrative Law Judge (ALJ) entered a Recommended Order on March 6, 2017, 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.

The claim has not been resolved and the matter remains outstanding.

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, Delicious Citrus Packing, LLC, shall pay Petitioner, Emmitt King, Jr., d/b/a KAD Harvesting and Hauling, LLC, the amount of \$47,210.00, to be paid within fifteen (15) days from the date this order becomes final. In the event, that Respondent does not comply with this order within fifteen (15) days from the date it becomes final, Platte River Insurance Company, as Co-Respondent for 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. **Should responsibility for payment evolve to Co-Respondent, Platte River Insurance Company will be notified by this office.**

Done and Ordered this 13th day of April, 2017.

**ADAM H. PUTNAM
COMMISSIONER OF AGRICULTURE**

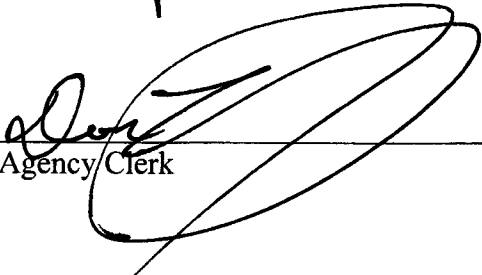


**MICHAEL JOYNER
ASSISTANT COMMISSIONER**

NOTICE OF RIGHT TO JUDICIAL REVIEW

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.

Rendered, this 13th day of April, 2017.



Agency Clerk

Copies Furnished to:

Robert E. Meale, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060

Emitt King, Jr, d/b/a KAD Harvesting and Hauling, LLC, 13302 Winding Oak Court, Suite A, Tampa, FL 33612

Delicious Citrus Packing, LLC, 3485 South US Highway One, Suite 5W, Fort Pierce, FL 34982

Platte River Insurance Company, Attn: Claims Department, Post Office Box 5900, Madison, Wisconsin 53705