

DIVISION OF CONSUMER SERVICES
(850) 922-2966



THE RHODES BUILDING
2005 APALACHEE PARKWAY
TALLAHASSEE, FLORIDA 32399-6500

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

February 1, 2018

Copy

VIA: USPS

Great American Insurance Company
Douglas J. Aumann, Senior Claim Representative
301 East 4th Street, Suite 2800
Cincinnati, OH 45202

RE: AGENCY FINAL ORDER
Case No. 1704-13661
Agency Clerk Tracking No. B07576

2018 FEB -5 PM 2:10
DIVISION OF
ADMINISTRATIVE HEARINGS

FILED

Enclosed is a copy of the Department's final agency action in the matter of the above-referenced case.

Please read and immediately comply with the Final Order. You have 30 days from the rendition of the Final Order to respond and preserve your rights. Thereafter, the Department may avail itself of any and all further remedies authorized by law.

Should you have any questions please contact me at (850) 410-3759.

Sincerely,

Chastity Rooks
Regulatory Consultant
Chastity.Rooks@freshfromflorida.com

Enclosure:

DIVISION OF CONSUMER SERVICES
(850) 922-2966



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2005 APALACHEE PARKWAY
TALLAHASSEE, FLORIDA 32399-6500

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER ADAM H. PUTNAM

February 1, 2018

VIA: USPS

C. Fullerton Sod & Landscaping Company, Inc.
Jean D. Fullerton, President
1711 Southeast Airport Road
Arcadia, FL 34266

RE: **AGENCY FINAL ORDER**
Case No. 1704-13661
Agency Clerk Tracking No. B07576

FILED
2018 FEB -5 PM 2:11
DIVISION OF
ADMINISTRATIVE HEARINGS

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Chastity Rooks
Regulatory Consultant
Chastity.Rooks@freshfromflorida.com

Enclosure:

**FLORIDA DEPARTMENT OF AGRICULTURE
AND CONSUMER SERVICES**

FILED
2018 FEB -5 PM 2:11
DIVISION OF
ADMINISTRATIVE HEARINGS

OTHER SIDE SOD, INC.,

Petitioner,

vs.

**C. FULLERTON SOD & LANDSCAPING
COMPANY, INC.,**

and

**GREAT AMERICAN INSURANCE
COMPANY,**

Respondent and Co-Respondent.

DACS Case No. 1704-13661
DOAH Case No: 17-3275
Agency Clerk Filing No.: B07576
Amount of Claim: \$4,981.34

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

Other Side Sod, Inc. (Petitioner), in the above-captioned matter, is a dealer of Florida agricultural products. The Petitioner sold sod to C. Fullerton Sod & Landscaping Company Inc. (Respondent), during the months of October, November, December of 2016, and January 2017. On March 30, 2017, the Petitioner filed a complaint for non-payment against the Respondent totaling \$16,367.74, 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 April 19, 2017. The Respondent received the notice on April 21, 2017. The Respondent responded to the claim by timely filing the Answer of Respondent. The notice of claim was also sent to, Great American Insurance Company (Co-Respondent), via UPS. The Co-respondent received the notice of claim on April 21, 2017. 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 October 10, 2017, and the Administrative Law Judge (ALJ) entered a Recommended Order on November 7, 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 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, C. Fullerton Sod & Landscaping Company, Inc., shall pay Petitioner, Other Side Sod, LLC., the amount of \$4,981.34, 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, Great American Insurance Company, as the 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 Obligee on the bond. **Should responsibility for payment evolve to the Co-Respondent, Great American Insurance Company will be notified by this office.**

Done and Ordered this 29th day of January, 2018.

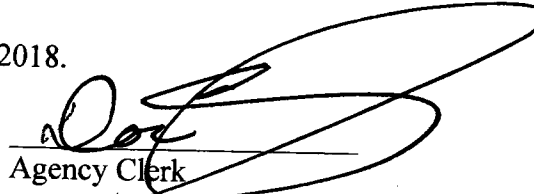
**ADAM H. PUTNAM
COMMISSIONER OF AGRICULTURE**


**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 29th day of January, 2018.


Agency Clerk

Copies Furnished to:

Judge Linzie F. Bogan
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

Other Side Sod, LLC.,
Joel Deriso, Manager
3356 Southwest County Road 769
Arcadia, FL 34269

C. Fullerton Sod & Landscaping Company, Inc.
Jean D. Fullerton, President
1711 Southeast Airport Road
Arcadia, FL 34266

Great American Insurance Company
Douglas J. Aumann, Senior Claim Representative
301 East 4th Street, Suite 2800
Cincinnati, OH 45202

UPS Receipt 123648784292950020

Transaction Date: 01 Feb 2018 — Keep Record

ADDRESS INFORMATION

SHIP TO	SHIPPER	ORIGIN
JEAN D. FULLERTON C. FULLERTON SOD & LANDSCAPING 331 SW MARTIN LUTHER KING ARCADIA FL 34266	CHASTITY ROOKS M&E 850-410-3769 2005 APALACHEE PARKWAY TALLAHASSEE FL 32399	TALLAHASSEE FL 32399

SHIPMENT DETAILS

Shipping Charges in USD

Service:	UPS GROUND
Guaranteed By:	End of Day, Fri. 2 Feb. 2018
Quantum View Notify:	0.00
Total Weight:	1 LBS
Billable Weight:	1 LBS
Shipping:	11.67

PACKAGE DETAILS

Pkg Tracking Number	Length	Height	Width	Weight
1 123648784292950020				1 LBS

Sign. Required: 4.75

PAYMENT METHOD

Bill Shipping Charges to: Shipper 364878
Total Charges: 13.42

UPS Receipt 123648784292006836

Transaction Date: 01 Feb 2018 — Keep Record

ADDRESS INFORMATION

SHIP TO	SHIPPER	ORIGIN
DOUGLAS J. AUMANN GREAT AMERICAN INSURANCE CO 301 EAST 4TH STREET, SUITE CINCINNATI OH 45202	CHASTITY ROOKS M&E 850-410-3769 2005 APALACHEE PARKWAY TALLAHASSEE FL 32399	TALLAHASSEE FL 32399

SHIPMENT DETAILS

Shipping Charges in USD

Service:	UPS GROUND
Guaranteed By:	End of Day, Tues. 6 Feb. 2018
Quantum View Notify:	0.00
Total Weight:	1 LBS
Billable Weight:	1 LBS
Shipping:	9.55

PACKAGE DETAILS

Pkg Tracking Number	Length	Height	Width	Weight
1 123648784292006836				1 LBS

Sign. Required: 4.75

PAYMENT METHOD

Bill Shipping Charges to: Shipper 364878
Total Charges: 14.30