

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:) PACA Docket No. D-14-0050
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Al Harrison Company Distributors ,)
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Respondent)

Decision and Order

In this disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.) (PACA), a Complaint was filed on December 13, 2013, alleging that Respondent had committed willful, flagrant and repeated violations of section 2(4) of the PACA by failing to make full payment promptly to 12 sellers of the agreed purchase prices in the total amount of \$690,537.393 for 104 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in the course of interstate and foreign commerce, during the period of April 2012 through April 2013. The Complaint sought the issuance of an order finding that Respondent had committed willful, flagrant and repeated violations of section 2(4) of the PACA, and revocation of Respondent's PACA license pursuant to section 8(a) of the PACA (7 U.S.C. § 499h(a)).

A Consent Decision and Order was issued on August 21, 2014, pursuant to the consent decision provisions (7 C.F.R. §1.138) of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 et seq.; Rules of Practice) applicable to this proceeding..

The Consent Decision concluded that Respondent's failure to make full payment promptly to 12 sellers of the agreed purchase prices of the perishable agricultural commodities

constituted willful, flagrant, and repeated violations of section 2(4) of the PACA (7 U.S.C. § 499b(4)).

The Consent Decision issued a finding that Respondent engaged in willful, flagrant, and repeated violations of the PACA, and ordered that Respondent's PACA license be revoked. The finding and the revocation of license were held in abeyance so long as Respondent paid the produce sellers listed in Appendix A to the Complaint and satisfied the amounts owed to each, as stated in the Complaint and Consent Decision, in full, within six months (180 days) of the effective date of the Consent Decision and Order.

The Consent Decision stated that the PACA Branch of the Agricultural Marketing Service shall be the final arbiter of whether full payment to the produce sellers in the amounts listed in the Complaint had been paid, and further, that it would be Respondent's obligation to demonstrate that full payment as described above has been made.

The Consent Decision further stated, *inter alia*, that if full payment of the sellers and amounts listed in the Appendix A to the Complaint was not made within 180 days of the effective date of the Consent Decision and Order, then the finding of willful, flagrant, and repeated violations, and the revocation of Respondent's PACA license, would no longer be held in abeyance and would be issued without further proceeding, other than a filing by Complainant informing the Administrative Law Judge of Respondent's failure to comply with the terms of the Consent Decision and Order, and requesting that the finding of violation and order of revocation no longer be held in abeyance, and that Respondent's PACA license be immediately revoked. Respondent expressly waived all further procedure in the matter following the Consent Decision and Order.

On or about March 19, 2015, Complainant informed this forum that as of March 6, 2015,

more than 180 days following the effective date of the Consent Decision and Order, Complainant has determined and Respondent has acknowledged that full payment of the sellers listed in the Complaint has not been made. Complainant requested the issuance of an order. Therefore, pursuant to the Consent Decision issued on August 21, 2015, this *Decision and Order* is entered without further procedure or hearing pursuant to the consent decision provisions (7 C.F.R. §1.138) of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 et seq.)(Rules of Practice) applicable to this proceeding.

Findings of Fact

1. Respondent is a corporation organized and existing under the laws of the state of Arizona. Respondent's business and mailing address is 561 W. Gold Hills Road, Nogales, Arizona 85621.
2. At all times material herein, Respondent was licensed and operating subject to the provisions of the PACA. License number 19175522 was issued to Respondent on April 14, 1958. The license has been renewed annually, and is next subject to renewal on April 14, 2015.
3. During the period April 2012 through April 2013, Respondent purchased, received, and accepted, in interstate and foreign commerce, from 12 sellers, 104 lots of perishable agricultural commodities, and failed to make full payment promptly of the agreed purchase prices, in the total amount of \$690,537.393.

Conclusions

Respondent's failure to make full payment promptly to 12 sellers of the agreed purchase prices of the perishable agricultural commodities described in Finding of Fact paragraph 3 above constitutes willful, flagrant, and repeated violations of section 2(4) of the PACA (7 U.S.C. §

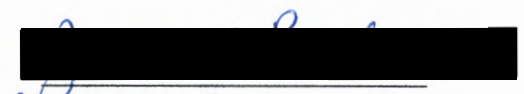
499b(4)).

Order

Respondent has engaged in willful, flagrant, and repeated violations of the PACA, and Respondent's PACA license is hereby revoked pursuant to section 8(a) of the PACA (7 U.S.C. § 499h(a)).

Done at Washington, D.C.

this 24th day of MARCH, 2015



for Jill C. Pto
Administrative Law Judge