

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

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In re:) PACA Docket No. D-02-0019
)
A & L Produce Co. and)
High Desert Distributing, Inc.,)
) Decision Without Hearing
Respondents) by Reason of Default

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*) (the PACA), instituted by a complaint filed on July 10, 2002, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture ("Complainant").

The complaint claims that Respondent A & L Produce Co. and its direct successor, Respondent High Desert Distributing Inc., willfully, flagrantly and repeatedly violated section 2(4) of the PACA (7 U.S.C. § 499b(4)). The complaint alleges that Respondent A & L Produce Co., during the period March 1999 through May 1999, failed to make full payment promptly to two sellers of the agreed purchase prices of \$155,081.22 for 28 lots of perishable agricultural commodities purchased, received, and accepted in interstate commerce, and that Respondent High Desert Distributing Inc., during the period February 2000 through May 2001, failed to make full payment promptly to four sellers of the agreed purchase prices of \$181,384.15 for 50 lots of perishable agricultural commodities purchased, received, and accepted in interstate commerce.

Copies of the complaint were served upon Respondents, and Respondents did not file answers and are in default. Complainant moved for the issuance of a Decision Without Hearing by Reason of Default, and on January 10, 2003, Mr. Dave Young filed his response. Mr. Young was a partner in Respondent A & L Produce Co. Although Mr. Young's response does not

provide grounds for setting aside the default, his response has been considered in issuing this Decision. This Decision is issued pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent A & L Produce Co. (hereinafter "A & L") is a partnership organized and existing under the laws of the State of California. At all times material herein, A & L's business address was 35651 80th Street East, Littlerock, California 93543, and its mailing address was P.O. Box 4, Littlerock, California 93543. A & L ceased operations in approximately August 1999.

2. At all times material herein, James David Young and Deborah Elyse Young were equal partners of A & L.

3. At all times material herein, A & L was licensed under the PACA. License number 962222 was issued to A & L on August 8, 1996. This license terminated on August 8, 1999, when the firm failed to pay the applicable annual license renewal fee.

4. Respondent High Desert Distributing, Inc. (hereinafter "High Desert") is a corporation organized and existing under the laws of the State of Nevada. At all times material herein, High Desert's business address was 35651 80th Street East, Littlerock, California 93543 and its mailing address was P.O. Box 4, Littlerock, California 93543. High Desert's subsequent business address appears to be 1555 E. Flamingo, Suite 155, Las Vegas, Nevada 89119, or c/o Jonathan L. Ames, President, 7346 Sandpiper Dr., Quartz Hill, California 93536.

5. High Desert began operating in September 1999.

6. At all times material herein, High Desert was licensed under the PACA. License number 000236 was issued to High Desert on November 15, 1999. This license terminated on November 15, 2001, when the firm failed to pay the applicable annual license renewal fee.

7. As more fully set forth in paragraph III. of the complaint, A & L, during the period March 1999 through May 1999, failed to make full payment promptly to two sellers of the agreed purchase prices of \$155,081.22 for 28 lots of perishable agricultural commodities purchased, received, and accepted in interstate commerce.

8. As more fully set forth in paragraph IV. of the complaint, High Desert, during the period February 2000 through May 2001, failed to make full payment promptly to two sellers of the agreed purchase prices of \$164,120.15 for 48 lots of perishable agricultural commodities purchased, received, and accepted in interstate commerce.

Conclusions

Respondents' failures to make full payment promptly with respect to the transactions referred to in Findings of Fact 7 and 8 above, constitute willful, flagrant and repeated violations of section 2(4) of the PACA (7 U.S.C. § 499b(4)), for which the Order below is issued.

Order

1. Respondents A & L and High Desert have committed willful, flagrant and repeated violations of section 2(4) of the Perishable Agricultural Commodities Act (7 U.S.C. § 499b(4)), and the facts and circumstances of the violations shall be published.

2. This order shall take effect on the 11th day after this Decision becomes final.

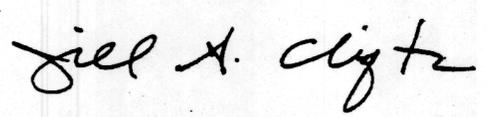
3. This Decision becomes final without further proceedings 35 days after service hereof unless appealed to the Judicial Officer by a party to the proceeding within 30 days after

service, as provided in sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139, 1.145).

Copies of this Decision shall be served by the Hearing Clerk upon each of the parties, each in a separate envelope.

Done at Washington, D.C.

this 27 day of March, 2003



Jill S. Clifton
Administrative Law Judge