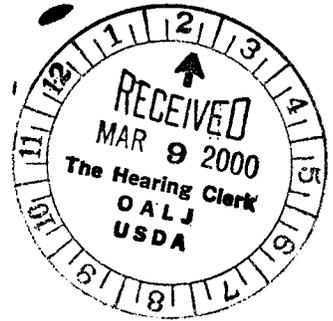


Erwin

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) PACA Docket No. D-99-0011
)
Evergreen International, Inc.)
)
Respondent)

DECISION WITHOUT HEARING BY REASON OF CONSENT

In this disciplinary proceeding the Perishable Agricultural Commodities Act (7 U.S.C. §499a et seq.)(PACA), a complaint was filed on June 2, 1999, alleging that Respondent has committed willful, flagrant and repeated violations of section 2(4) of the PACA (7 U.S.C. §499b(4)) by making, for a fraudulent purpose, false and misleading statements in connection with perishable agricultural commodities which it purchased, received and accepted in interstate commerce. Such false statements were made when Respondent altered the contents of eleven U.S. Department of Agriculture, Agricultural Marketing Service Inspection Certificates between the dates of June 27, 1996 and May 24, 1997. The parties agreed to settle this matter without hearing through the entry of a consent decision, and Complainant requests that the following decision and order be entered without further procedure or hearing. Accordingly, this Decision without Hearing by Reason of Consent is issued pursuant to Section 1.138 of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary (7 C.F.R. §1.138).

REGISTRATION & ASSOCIATES FILE # 202 0047101 Jan 21 00 9:48 NO.002 P.03

Findings of Fact

1. Evergreen International, Inc. (hereinafter "Respondent") is a corporation organized and existing under the laws of the State of Illinois. Its business address is 4-5-6 South Water Market, Chicago, Illinois, 60608.

2. Pursuant to the licensing provisions of the Act, license number 901845 was issued to Respondent on September 5, 1990. This license has been renewed annually and is next subject to renewal on September 5, 2000.

3. During the period June 27, 1996 and May 24, 1997, Respondent made, for a fraudulent purpose, false and misleading statements in connection with perishable agricultural commodities which it purchased, received and accepted in interstate commerce. Such false and misleading statements were made when respondent altered the contents of eleven U.S. Department of Agriculture, Agricultural Marketing Service Inspection Certificates that were submitted to seven of Respondent's suppliers.

Conclusion

Respondent's false and misleading misrepresentations, as more fully set forth in paragraph III of the complaint, 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

Pursuant to Section 8(e) of the PACA (7 U.S.C. §499h(e)), Respondent is assessed a \$55,000.00 civil penalty in lieu of a 60 day suspension of Respondent's PACA license. In addition, Respondent shall make restitution to the sellers listed in the administrative complaint in the amount of \$10,606.92 and provide the appropriate proof that such restitution has been made.

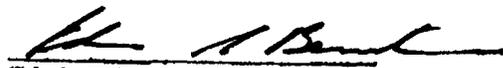
TOTAL P.04

This order shall become final within 10 days from the date of issuance.

Copies hereof shall be served upon the parties.

Issued at Washington, D.C.

This 9th day of March, 2000


Edwin S. Bernstein
Administrative Law Judge

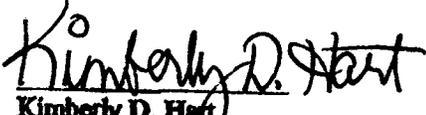
FOR RESPONDENT


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FOR COMPLAINANT


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