

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

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In re: ) PACA Docket No. D-02-0001  
)  
Growers Produce, a/t/a )  
Western Produce Company, )  
)  
Respondent ) Decision Without Hearing  
) By Reason of Default  
)

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. §499a et seq.) hereinafter referred to as the "Act", instituted by a Complaint filed on October 11, 2001, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. It is alleged in the complaint that during the period August through November 1999, Respondent failed to make full payment promptly to 32 sellers in the total amount of \$332,492.99 for 439 lots of perishable agricultural commodities it purchased, received and accepted in interstate and foreign commerce.

A copy of the complaint was mailed to the Respondent by certified mail on October 11, 2001 and received by Respondent on October 18, 2001. This complaint has not been answered. The time for filing an Answer having run, and upon motion of the Complainant for the issuance of a Default Order, the following Decision and Order shall be issued without further investigation or hearing pursuant to Section 1.139 of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (Rules of Practice) (7 C.F.R. §1.139).

### Findings of Fact

1. Respondent, Growers Produce, also trading as Western Produce Company, is a corporation organized and existing under the laws of the State of California. Its business address is 380 Third Street, Oakland, California 94607.

2. At all times material herein, Respondent was licensed under the provisions or operating subject to the provisions of the PACA. License number 182180 was issued to Respondent on July 15, 1959. The license terminated on July 15, 2000, when Respondent failed to pay the required annual renewal fee pursuant to Section 4(a) of the PACA (7 U.S.C. § 499d(a)).

3. During the period of August through November 1999, Respondent purchased, received, and accepted in interstate and foreign commerce from 32 sellers, 439 lots of perishable agricultural commodities, but failed to make full payment promptly of the agreed purchase prices or balance thereof in the total amount of \$332,492.99.

### Conclusions

Respondent's failure to make full payment promptly with respect to the transactions set forth in Finding of Fact No. 3, above, constitutes willful, repeated and flagrant violations of Section 2(4) of the Act (7 U.S.C. §499b(4)), for which the Order below is issued.

### Order

A finding is made that Respondent has committed willful, repeated and flagrant 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.

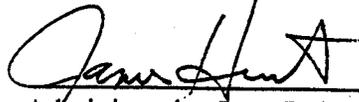
This Order shall take effect on the eleventh day after this Decision becomes final.

Pursuant to the Rules of Practice, this Decision will become final without further proceedings

thirty-five days after service hereof, unless appealed to the Secretary by a party to the proceedings within thirty-five days after service as provided in Sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §1.139 and 1.145).

Copies hereof shall be served upon the parties.

Done at Washington, D.C.  
this 25th day of November 2002

  
Administrative Law Judge