

UNITED STATES DEPARTMENT OF AGRICULTURE

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OALJ/HCO

BEFORE THE SECRETARY OF AGRICULTURE

2000 MAR 30 P 3:50

In re:

) PACA Docket No. D-00-0012

)

Hapco Farms, Inc.,

)

)

Respondent

)

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**DECISION WITHOUT HEARING BY REASON OF CONSENT**

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.) (PACA). Complainant has filed a complaint alleging that Respondent violated section 2(4) of the PACA (7 U.S.C. § 499b(4)) by failing, without reasonable cause, to perform any specification or duty, express or implied, arising out of any undertaking in connection with produce it received and shipped in interstate commerce, in that Respondent failed to exercise sufficient oversight over its internal record keeping system and business operations at its Pompano Beach, Florida facility to ensure that they consistently and accurately reflected produce received and shipped by Respondent, failed to ascertain the deficiencies of its record keeping system and business operations, and failed to speedily correct those deficiencies.

Respondent admits the allegations of the complaint and agrees to the entry of this Decision. Therefore, this Decision Without Hearing by Reason of Consent is entered without further procedure or hearing pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

### Findings of Fact

1. Hapco Farms, Inc. (hereinafter, "Respondent"), is a corporation organized and existing under the laws of the State of New York. Its business address is P.O. Box 608, Riverhead, New York 11901.
2. At all times material herein, Respondent was licensed under the provisions of the PACA. License number 151457 was issued to Respondent on May 28, 1954. This license has been renewed annually and is next subject to renewal on or before May 28, 2000.
3. As alleged in paragraph III of the complaint, from approximately August 1995 through January 1996, Respondent failed, without reasonable cause, to perform any specification or duty, express or implied, arising out of any undertaking in connection with produce it received and shipped in interstate commerce, in that Respondent failed to exercise sufficient oversight over its internal record keeping system and business operations at its Pompano Beach, Florida facility to ensure that they consistently and accurately reflected produce received and shipped by Respondent, failed to ascertain the deficiencies of its record keeping system and business operations, and failed to speedily correct those deficiencies. In August 1995, Respondent hired a professional computer consultant and conducted a detailed analysis of Respondent's computer-based record keeping systems, identified deficiencies in the systems, and implemented a system to correct those deficiencies.

### Conclusions

Respondent's failure, without reasonable cause, to perform any specification or duty, express or implied, arising out of any undertaking in connection with transactions subject to the PACA, as 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

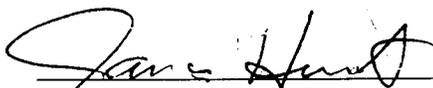
In lieu of a 30 day license suspension, Respondent is hereby assessed a civil penalty of \$55,000.00.

This order shall become final upon issuance.

Copies of this order shall be served upon the parties.

Done at Washington, D.C.

this 30th of March, 2000

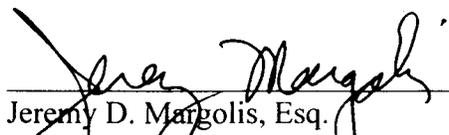
  
Administrative Law Judge

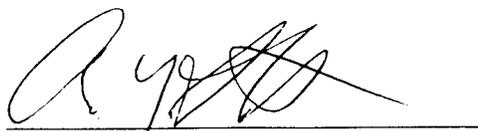
For Respondent

  
for Hapco Farms, Inc.

For Complainant

  
Eric M. Forman  
Associate Deputy Administrator  
Fruit and Vegetable Programs  
Agricultural Marketing Service

  
Jeremy D. Margolis, Esq.  
Attorney for Respondent

  
Andrew Y. Stanton, Esq.  
Attorney for Complainant