

Serrano

UNITED STATES DEPARTMENT OF AGRICULTURE

USDA
OALJ/HCO

BEFORE THE SECRETARY OF AGRICULTURE

2001 MAR -8 P 4: 28

In re:) PACA Docket No. D-00-0018
Multi Fruit USA, 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). On July 20, 2000, Complainant filed a complaint alleging that in January 1997, Respondent willfully, flagrantly and repeatedly violated 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 a transaction involving a perishable agricultural commodity by sending documents to a citrus producer and a carrier containing information which Respondent knew was not correct, resulting in Respondent obtaining an unjust enrichment of \$3,950.00 from the producer and \$2,544.10 from the carrier. The complaint requested the issuance of an order suspending Respondent's PACA license for 45 days or an equivalent civil penalty. Respondent filed an answer, denying liability.

The parties have now agreed to the entry of a Decision Without Hearing by Reason of Consent as set forth herein. 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. Multi Fruit USA, Inc. (hereinafter "Respondent"), is a corporation organized and existing under the laws of the State of Florida. Its business address is 316 White Horse Pike, Haddon Heights, New Jersey 08035.

2. At all times material herein, Respondent was licensed under the provisions of the PACA. License number 890542 was issued to Respondent on January 13, 1989. This license has been renewed annually and is next subject to renewal on or before January 13, 2002.

3. In January 1997, Respondent made, for a fraudulent purpose, false and misleading statements in connection with a transaction involving a perishable agricultural commodity by sending documents to a citrus producer, Lake Wales Citrus Growers Association, and a carrier, Sea-Land Service, Inc., containing information which Respondent knew was not correct, resulting in Respondent obtaining an unjust enrichment of \$3,950.00 from Lake Wales and \$2,544.10 from Sea-Land.

Conclusion

Respondent's making, for a fraudulent purpose, of false and misleading statements in connection with a transaction involving perishable agricultural commodities, as set forth in Finding of Fact 3 above, constitutes willful, flagrant and repeated violations of section 2(4) of the PACA.

Order

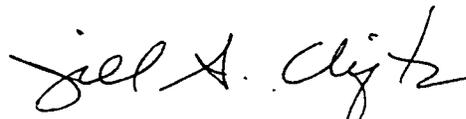
Respondent's PACA license is suspended for 45 days. However, this suspension shall be held in abeyance and, in lieu of the suspension, Respondent shall pay a civil penalty in the amount of \$20,000.00, in accordance with the terms of the Understanding With Respect to Civil

Penalty and Payment Terms entered into between Complainant and Respondent. If Respondent fails to satisfy the civil penalty in accordance with the Understanding With Respect to Civil Penalty and Payment Terms, the 45 day suspension of Respondent's PACA license shall automatically commence upon notice to Respondent without further procedure.

This order shall become final upon issuance. Copies of this order shall be served upon the parties.

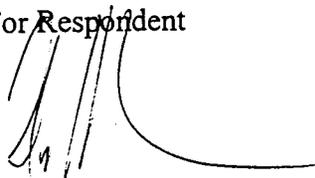
Done at Washington, D.C.

this 8 of March, 2001



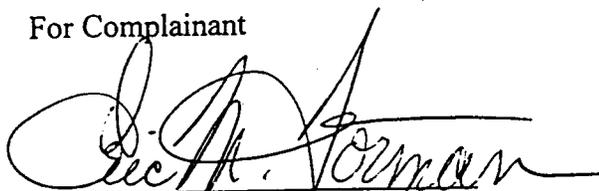
Administrative Law Judge

For Respondent

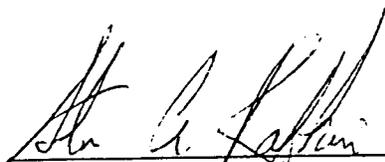


Greg Palmer, President
Multi Fruit USA, Inc.

For Complainant



Associate Deputy Administrator
Fruit and Vegetable Programs
Agricultural Marketing Service



Steven A. Rafkin, Esq.
Attorney for Respondent



Andrew Y. Stanton, Esq.
Attorney for Complainant