

UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE 2001 MAR 20 P 4: 16

In re:)	PACA Docket No. D-00-0021
)	
Packed Fresh Produce, Inc.,)	
)	Decision Without Hearing
Respondent)	by Reason of Default

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Preliminary Statement

This is a disciplinary proceeding under the Perishable Agriculture Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.) (hereinafter referred to as the "Act"), instituted by a Complaint filed on August 2, 2000, by the Acting Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. The Complaint alleges that during the period October 1999 through January 2000, Respondent Packed Fresh Produce, Inc., (hereinafter "Respondent") failed to make full payment promptly to 12 sellers, of the agreed purchase prices, or balances thereof, in the total amount of \$1,673,191.38 for 143 lots of perishable agricultural commodities which it received, accepted and sold in interstate commerce.

A copy of the Complaint was served upon Respondent on August 20, 2000, which Respondent has not answered. The time for filing an answer having expired, 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 (7 C.F.R. § 1.139).

Finding of Fact

1. Respondent is a corporation organized and existing under the laws of the state of New Jersey. Its business address was 115 Graham Lane, Lodi, New Jersey 07644-1622. Its mailing address is 716 Newman Springs Road, Suite 312, Lincroft, New Jersey 07738-1523.

2. At all times material herein, Respondent was licensed under the provisions of the PACA. License number 991181 was issued to Respondent on June 4, 1999. This license was suspended on April 4, 2000, pursuant to Section 13(a) of the PACA (7 U.S.C. § 499m), when Respondent failed to allow inspection of its records. This license subsequently terminated on June 4, 2000, pursuant to Section 4(a) of the PACA (7 U.S.C. § 499d(a)), when Respondent failed to pay the required annual renewal fee.

3. As more fully set forth in paragraph III of the Complaint, during the period October 1999 through January 2000, Respondent purchased, received, and accepted in interstate commerce, from 12 sellers, 143 lots of fruits and vegetables, all being perishable agricultural commodities, but failed to make full payment promptly of the agreed purchase prices, in the total amount of \$1,673,191.38.

Conclusions

Respondent's failure to make full payment promptly with respect to the 143 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, flagrant and repeated violations of Section 2 of the Act (7 U.S.C. 499b), and the facts and circumstances set forth above, shall be published.

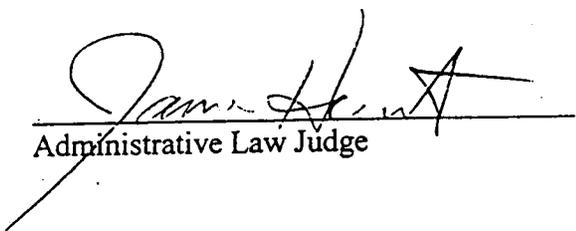
This order shall take effect on the 11th day after this Decision becomes final.

Pursuant to the Rules of Practice governing procedures under the Act, this Decision will become final without further proceedings 35 days after service hereof unless appealed to the Secretary 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 and 1.145).

Copies hereof shall be served upon parties.

Done at Washington, D.C.

this 20th day of March, 2001


Administrative Law Judge