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UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

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In re: ) PACA Docket No. D-01-0001  
)  
Stanley Orchards Sales, Inc., )  
) Decision Without Hearing by Reason  
Respondent ) of Consent

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.) (PACA), instituted by a complaint filed on October 11, 2000, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture.

The complaint alleged that, during the period August 18, 1997, through January 6, 1998, Respondent committed willful, flagrant and repeated violations of sections 2(4), 2(5) and 9 of the PACA (7 U.S.C. §§ 499b(4), b(5) and i) in that Respondent (a) misrepresented 20,038 cartons of various types of apples as McIntosh and sold and shipped the misrepresented apples to numerous customers in interstate and foreign commerce; (b) made false and misleading statements for a fraudulent purpose by misrepresenting the apples as McIntosh; and (c) failed to keep such accounts, records and memoranda as fully and correctly disclosed the type of apples it sold and shipped to its customers.

A copy of the complaint was served upon Respondent, which filed an answer, denying the allegations of the complaint.

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. Respondent, Stanley Orchards Sales, Inc. (hereinafter, "Respondent"), is a corporation organized and existing under the laws of the State of New York. Respondent's business address is Route 32 & Orchard Drive, Modena, New York 12548, and its mailing address is 5 Orchard Drive, Gardiner, New York 12525.

2. Respondent was issued PACA license number 910744 on March 7, 1991. This license has been renewed annually and is next subject to renewal on March 7, 2003.

Conclusions

Respondent admits the jurisdictional allegations of the complaint, neither admits nor denies the remaining allegations of the complaint, and agrees to the following order.

Order

Respondent's PACA license is suspended for 90 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 \$100,000.00, 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 90 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 ~~28<sup>th</sup>~~ of ~~April~~, 2002 DB  
*May 3, 2002*

*Dorothea A. Baker*  
Administrative Law Judge

For Respondent

*M. PRES*  
for Stanley Orchards Sales, Inc.

*Leonard Kreinces*  
Leonard Kreinces, Esq.  
Attorney for Respondent

For Complainant

*Eric A. Horner*  
Associate Deputy Administrator  
Fruit and Vegetable Programs, AMS

*Andrew Y. Stanton*  
Andrew Y. Stanton, Esq.  
Attorney for Complainant