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UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

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2001 OCT 17 P 4: 21

In re: ) PACA Docket No. D-99-0013 RECEIVED  
)  
The Herb Farm d/b/a The Greenhouse, )  
a/k/a H.F. Liquidation Corp., )  
) 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 July 6, 1999, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture.

The complaint alleged that Respondent had committed willful, flagrant and repeated violations of section 2(4) of the PACA (7 U.S.C. § 499b(4)) by failing to make full payment promptly to 22 sellers for purchases of 399 lots of perishable agricultural commodities in the course of interstate and foreign commerce in the amount of \$985,722.48 during the period June 1997 through May 1998. The complaint also alleged that, on February 19, 1998, Respondent filed a voluntary petition in the United States Bankruptcy Court for the Southern District of California pursuant to Chapter 11 of the Bankruptcy Code (11 U.S.C. § 1100 et seq.), designated Case No. 98-02457-A11. The complaint further alleged that Respondent's PACA license terminated on December 28, 1998,<sup>1</sup> pursuant to section 4(a) of the PACA (7 U.S.C. § 499d(a)). Complainant requested that, as a result of Respondent's violations of the PACA, an order should be issued revoking Respondent's PACA license.

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<sup>1</sup> Subsequent to the filing of the complaint, it was determined that Respondent's Plan of Reorganization was confirmed on November 18, 1998. Therefore, Respondent's PACA license terminated on November 18, 1998, pursuant to section 4(a) of the PACA.

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, The Herb Farm, d/b/a The Greenhouse, a/k/a H.F. Liquidation Corp., is a corporation organized and existing under the laws of the State of California. At all times material herein, Respondent's business address was 1535-1595 Walnut Parkway, Compton, California 90220. Respondent's mailing address is 11512 El Camino Real, Suite 300, San Diego, California 92130.
2. At all times material herein, Respondent was licensed under the PACA. License number 972061 was issued to Respondent on August 21, 1997. This license terminated on November 18, 1998, pursuant to section 4(a) of the PACA (7 U.S.C. § 499d(a)), upon confirmation of Respondent's plan of reorganization under Chapter 11 of the Bankruptcy Code.
3. Subsequent to the confirmation of Respondent's plan of reorganization, on January 11, 2001, Respondent filed another petition under Chapter 11 of the Bankruptcy Code.
4. Respondent, during the period June 1997 through May 1998, committed willful, flagrant and repeated violations of section 2(4) of the PACA by failing to make full payment promptly to 22 sellers for purchases of numerous lots of perishable agricultural commodities in the course of interstate and foreign commerce in the amount of \$962,668.22.

Conclusions

Respondent's actions, as set forth in Finding of Fact 4 above, constitute willful, flagrant and repeated violations of section 2(4) of the PACA, for which the Order below is issued.

Order

Respondent is hereby found to have committed willful, flagrant and repeated violations of section 2(4) of the PACA, and the facts and circumstances of the violations shall be published.

This Order will take effect 10 days from the date this Decision becomes final. This Decision will become final without further proceedings upon its issuance, pursuant to section 1.138 of the Rules of Practice (7 C.F.R. § 1.138).

Copies of this Order shall be served upon the parties.

Done at Washington, D.C.

*8* this *17*~~16~~ of *October*, 20001

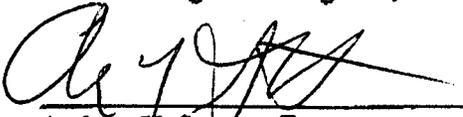
*Jill S. Clifton*  
Jill S. Clifton  
Administrative Law Judge

For Respondent

  
\_\_\_\_\_  
Paul Friedman  
Chief Operating Officer

For Complainant

  
\_\_\_\_\_  
Associate Deputy Administrator  
Fruit and Vegetable Programs, AMS

  
\_\_\_\_\_  
Andrew Y. Stanton, Esq.  
Attorney for Complainant