

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

USDA
OALJ/HCO

2001 SEP 25 P 4: 28

In re:) PACA Docket No. DFO1-004
)
Two Brothers Wholesale Fruit)
& Produce, Inc.,)
)
Respondent) Decision Without Hearing
) By Reason of Default

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Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.) hereinafter referred to as the "Act", instituted by a Complaint filed on November 15, 2001, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. The Complaint alleges that during the period February 1999 through January 2000, Respondent purchased, received, and accepted, in interstate and foreign commerce, from 22 sellers, 740 lots of perishable agricultural commodities, but failed to make full payment promptly of the agreed purchase prices in the total amount of \$342,602.16.

A copy of the Complaint was served upon Respondent; Respondent did not answer the Complaint. The time for filing an answer having expired, and upon the motion of the Complainant for the issuance of a Default Order, the following Decision and Order is issued without further investigation or hearing pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent is a corporation organized and existing under the laws of the state of Massachusetts. Its business address was 105 Second Street, Chelsea, Massachusetts 02150. Its current mailing address is 405 Mariners Hill Road, Marshfield, Massachusetts, 02050.

2. At all times material herein, Respondent was licensed under the provisions of the PACA. Pursuant to the licensing provisions of the Act, license number 971428 was issued to Respondent on May 12, 1997. This license terminated on May 12, 2000, pursuant to Section 4(a) of the Act (7 U.S.C. § 499d(a)) when it was not renewed.

3. As more fully set forth in paragraph III of the Complaint, during the period February 1999 through January 2000, Respondent purchased, received, and accepted, in interstate and foreign commerce, from 22 sellers, 740 lots of fruits and vegetables, all being perishable agricultural commodities, and failed to make full payment promptly of the agreed purchase prices, in the total amount of \$342,602.16.

Conclusions

Respondent's failure to make full payment promptly with respect to the 740 transactions set forth in Finding of Fact No. 3, above, constitutes willful, flagrant and repeated violations of Section 2(4) of the Act (7 U.S.C. § 499b), 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 of the violations set forth above shall be published.

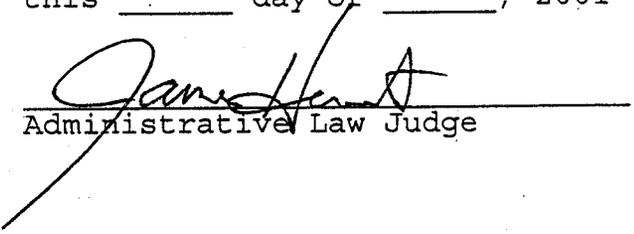
This order shall take effect on the 11th day after this Decision becomes final.

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 25th day of September, 2001


Administrative Law Judge