

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

2003 FEB 23 10 09 AM '04

In re:) PACA Docket No. D-03-0009
U.S. Tropicals L.L.C.,)
Respondent) Decision Without Hearing
by Reason of Default

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" or "PACA"), instituted by a complaint filed on January 27, 2003, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture.

The complaint alleges that during the period November 1999 through September 2001, Respondent U.S. Tropicals L.L.C., (hereinafter "Respondent") failed to make full payment promptly to 17 sellers of the agreed purchase prices, or balances thereof, in the total amount of \$453,228.48 for 143 lots of perishable agricultural commodities that it purchased, received, and accepted in interstate and foreign commerce.

A copy of the complaint was sent to Respondent's last known principal place of business by certified mail on January 28, 2003, but was returned on February 10, 2003. Pursuant to section 1.147 of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 *et seq.*, hereinafter "Rules of Practice"), the complaint is deemed served on February 10, 2003, the date on which the Hearing Clerk remailed the complaint by regular mail to Respondent's last known principal place of business. This complaint has not been 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.

Findings of Fact

1. Respondent is a limited liability company organized and existing under the laws of the State of Florida. Respondent's business mailing address is 159 S.W. 27th Avenue, Pompano Beach, Florida 33071.

2. At all times material herein, Respondent was licensed under the provisions of the PACA. License number 990260 was issued to Respondent on December 16, 1998. This license terminated on December 16, 2001, 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. During the period November 1999 through September 2001, Respondent purchased, received and accepted in interstate and foreign commerce, 143 lots of perishable agricultural commodities from 17 sellers, but failed to make full payment promptly of the agreed purchase prices, or balances thereof, in the total amount of \$453,228.48.

Conclusions

Respondent's failure to make full payment promptly with respect to the 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(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(4) of the Act (7 U.S.C. § 499b(4)), and the facts and circumstances of the

violations set forth above shall be published.

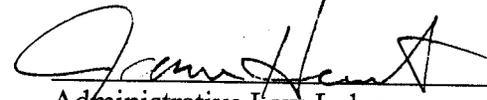
This order shall take effect on the 11th day after this Decision becomes final.

Pursuant to the Rules of Practice, 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 the parties.

Done at Washington, D.C.

this 27th day of MAY, 2003



Administrative Law Judge