

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

USDA  
OALJ/HCO

2000 APR 17 P 4:18

In re: ) PACA Docket No. D-00-0002  
)  
Jack T. Humphreys d/b/a Zia Onion )  
Sales and Fishing Expeditions, )  
)  
Respondent )

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DECISION WITHOUT HEARING BY REASON OF CONSENT

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.) (PACA). On October 13, 1999, Complainant filed a complaint alleging that Respondent willfully, flagrantly and repeatedly violated section 2(4) of the PACA (7 U.S.C. § 499b(4)) by making, for a fraudulent purpose, false and misleading statements in connection with transactions involving perishable agricultural commodities by purchasing and reselling 15 lots of onions in interstate commerce while falsely representing the identity of the receivers to four sellers. The complaint requested the issuance of an order suspending Respondent's PACA license for 60 days. Respondent filed an answer, denying liability.

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, Jack T. Humphreys doing business as Zia Onion Sales & Fishing Expeditions (hereinafter, "Respondent"), is an individual whose business address is 210 E. Marcy, Santa Fe, New Mexico 87501. Respondent's mailing address is P.O. Box 10157, Santa Fe, New Mexico 87504.
2. At all times material herein, Respondent was licensed under the provisions of the PACA. License number 911712 was issued to Respondent on September 11, 1991. The license has been renewed annually, is presently in effect, and is subject to renewal by September 11, 2000.
3. During the period June and August 1997, Respondent purchased and resold 15 lots of onions in interstate commerce while falsely representing the identity of the receivers to four sellers. The sellers had informed Respondent that they did not want their onions shipped to Gurda Gardens Ltd., Goshen, NY, but Respondent nonetheless resold the onions to Gurda Gardens Ltd. while falsely representing to the sellers that the onions were going to different receivers.
4. Respondent has made full restitution to the four sellers for price adjustments resulting from the representations referred to in Finding of Fact 3.

### Conclusion

Respondent's making, for a fraudulent purpose, of false and misleading statements in connection with transactions involving perishable agricultural commodities, as set forth in Finding of Fact 3 above, constitutes willful, flagrant and repeated violations of section 2(4) of the PACA.

Order

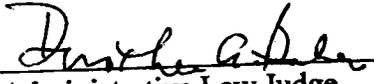
In lieu of a 60 day license suspension, Respondent shall pay a civil penalty in the amount of \$9,000.00.

This order shall become final upon issuance.

Copies of this order shall be served upon the parties.

Done at Washington, D.C.

this 17<sup>th</sup> of April, 2000

  
Administrative Law Judge

  
Jack T. Humphreys  
d/b/a Zia Onion Sales  
& Fishing Expeditions  
Respondent

  
Associate Deputy Administrator  
Fruit and Vegetable Programs  
Agricultural Marketing Service  
Complainant

  
Andrew Y. Stanton, Esq.  
Attorney for Complainant