Effective 11-29-98 Servais

The Hearing Clerk OALJ USDA

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	PACA Docket No. D-98-0020
	)	
Campo Tropical, Inc.,	)	
	)	
Respondent	)	

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 April 30, 1998, Complainant filed a complaint alleging that Respondent willfully, flagrantly and repeatedly violated section 2(4) of the PACA by failing to make full payment promptly of $427,408.20 to six sellers for 58 lots of perishable agricultural commodities which it purchased, received and accepted in the course of interstate commerce. The complaint alleged that Respondent operated subject to license under the PACA, although Respondent never had a PACA license. The complaint requested the issuance of an Order finding that Respondent had committed willful, flagrant and repeated violations of the PACA and ordering that Respondent's violations be published. 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, Campo Tropical, Inc., is a corporation organized and existing under the laws of the State of New Jersey. Its business mailing address is 920 Broadway, Newark, New Jersey 07104.

2. Respondent has never held a PACA license. However, at all times material herein, Respondent operated subject to the licensing provisions of the PACA.

3. During the period November 1996 through June 1997, Respondent failed to make full payment promptly to six sellers of the agreed purchase prices in the total amount of $427,408.20 for 58 lots of perishable agricultural commodities which it purchased, received and accepted in the course of interstate commerce.

Conclusion

Respondent's failure to make full payment promptly, as set forth in Finding of Fact 3 above, constitutes willful, flagrant and repeated violations of section 2(4) of the PACA, for which the Order below is issued.

Order

Respondent is found to have committed willful, flagrant and repeated violations of section 2(4) of the PACA (7 U.S.C. § 499b(4). This finding is ordered 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.
this 19th of November, 1998

Administrative Law Judge

For Respondent

for Campo Tropical, Inc.

For Complainant

Associate Deputy Administrator
Fruit and Vegetable Programs
Agricultural Marketing Service

Gerald T. McCarthy, Esq.
Attorney for Respondent

Andrew Y. Stanton, Esq.
Attorney for Complainant