

**In re: FRANCES F. REMUS, AN INDIVIDUAL d/b/a GET IT FROM THE GIRLS, AND ALSO d/b/a SHIMA PRODUCE.
PACA Docket No. D-04-0019.
Decision Without Hearing by Reason of Default.
Filed October 7, 2005.**

PACA – Default.

for Complainant.
Respondent Pro

Decision and Order by Administrative Law Judge Peter M. Davenport.

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*; hereinafter "Act" or "PACA"), instituted by a Complaint filed on August 12, 2004, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. The Complaint alleges that during the period August 2002 through March 2003, Respondent Frances F. Remus, an individual doing business as Get It From The Girls, and also doing business as Shima Produce (hereinafter "Respondent") failed to make full payment promptly to four sellers of the agreed purchase prices in the total amount of \$670,348.20 for 281 lots of perishable agricultural commodities which it purchased, received and accepted in interstate commerce.

On August 13, 2004, a copy of the Complaint was mailed to Respondent via certified mail to its business address. The Complaint was returned unclaimed on September 21, 2004 with the following forwarding address: Frances F. Remus, P.O. Box 1595, West Sacramento, California 95691-1595. On November 5, 2004, a copy of the Complaint was remailed to Respondent's forwarding address via regular mail by the Hearing Clerk. Pursuant to Section 1.147(c) (7 C.F.R. § 1.147(c)) of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 *et seq.*; hereinafter "Rules of Practice"), service is deemed made on the date of remailing by regular mail. Respondent has not answered the Complaint. 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

(7 C.F.R. § 1.139) of the Rules of Practice.

Findings of Fact

1. Respondent is an individual who does business in the State of California. Respondent's former business address was 1347 Windward Circle, West Sacramento, California 95691. Its current business address is P.O. Box 1595, West Sacramento, California 95691- 1595.

2. At all times material herein, Respondent was licensed under the provisions of the PACA. PACA license number 19970870 was issued to Respondent on February 19, 1997. That license terminated on February 19, 2003, 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 August 2002 through March 2003, Respondent purchased, received and accepted in interstate commerce from four sellers, 281 lots of fruits and vegetables, all being perishable agricultural commodities, but failed to make full payment promptly of the agreed purchase prices in the total amount of \$670,348.20.

Conclusions

Respondent's failure to make full payment promptly with respect to the 281 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 shall be published.

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).