

**In re: SUPERIOR PRODUCE EXCHANGE, LLC.  
PACA Docket. D-04-0023.  
Decision Without Hearing by Reason of Default.  
Filed May 24, 2006.**

Decision and Order by Administrative Law Judge Peter M. Davenport

**Preliminary Statement**

This is a disciplinary proceeding under the Perishable Agriculture Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*)(the "Act"), instituted by a Complaint filed on September 24, 2004, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. The Complaint alleged that during the period June 17, 2002 through May 7, 2003, Respondent Superior Produce Exchange, LLC (hereinafter "Respondent") failed to make full payment promptly to 15 sellers of the agreed purchase prices, or balances thereof, in the total amount of \$668,311.27 for 248 lots of perishable agricultural commodities which it purchased, received, and accepted in interstate commerce.

In accordance with the Order issued by Administrative Law Judge Peter M. Davenport on February 17, 2006 and the previous orders referenced therein, a copy of the Complaint with a cover letter from the Hearing Clerk and a copy 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") was delivered to Respondent's registered agent, Tawab Nassery, by Federal Express (See Attachment A) on February 20, 2006. 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 procedure pursuant to Section 1.139 of the Rules of Practice.

**Findings of Fact**

1. Respondent is a limited liability company organized in the state of New Jersey on May 8,2001. Its business mailing address is 4 Dundee Avenue, Paterson, New Jersey 07503-1206. The address of its registered agent is 46 Highview Avenue, Totowa, New Jersey 07512.

2. At all times material to the allegations in the complaint, Respondent was licensed under the PACA. License number 2002045 1 was issued to Respondent on January 1 1,2002. This license terminated on January 11,2004, 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. The Secretary has jurisdiction over Respondent and the subject matter involved herein.

4. During the period June 17,2002 through May 7,2003, Respondent purchased, received, and accepted in interstate commerce, from 15 sellers, 248 lots of perishable agricultural commodities, but failed to make full payment promptly of the agreed purchase prices, in the total amount of \$668,311.27.

### **Conclusions**

Respondent's failure to make full payment promptly with respect to the 248 lots set forth in Finding of Fact No. 4 above constitutes wilful, repeated and flagrant violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)), for which the Order below is issued.

### **Order**

Respondent has committed wilful, flagrant and repeated violations of Section 2 of the Act (7 U.S.C. § 499b), and the facts and circumstances of the violations 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 parties.