

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) PACA Docket No. D-05-0020  
)  
Indian Rock Produce Inc. )  
) Decision Without Hearing  
Respondent ) 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 **Act** or **PACA**), instituted by a Complaint filed on August 29, 2005, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. The Complaint alleges that during the period October 2002 through December 2003, Respondent Indian Rock Produce Inc., (hereinafter **Respondent**) failed to make full payment promptly to 27 sellers of the agreed purchase prices in the total amount of \$267,931.65 for 313 lots of perishable agricultural commodities which it purchased, received, and accepted in interstate commerce.

On August 29, 2005, a copy of the Complaint was mailed to Respondent via certified mail to its business mailing address. The Complaint was received on September 6, 2005 and signed for by LuAnn Buehrer who was then an officer of Respondent. 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 a corporation organized and existing under the laws of the State of Delaware. Its business mailing address is 530 California Road, P.O. Box 317, Quakertown, Pennsylvania 18951.

2. At all times material herein, Respondent was licensed under the provisions of the PACA. PACA license number 19871403 was issued to Respondent on June 9, 1987. That license terminated on June 9, 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. During the period October 2002 through December 2003, Respondent purchased, received and accepted in interstate commerce from 27 sellers, 313 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 \$267,931.65.

### Conclusions

Respondent's failure to make full payment promptly with respect to the 313 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).

Copies hereof shall be served upon parties.

Done at Washington, D.C.

this 10<sup>th</sup> day of February, 2006

Marc R. Hillson  
Administrative Law Judge

