

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

PACA Docket No. D-06-0020

In re: BEST FRESH, LLC,

Respondent

DEFAULT DECISION AND ORDER

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.) hereinafter referred to as the "Act", instituted by an amended complaint filed on October 20, 2006, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. The amended complaint alleges that during the period February 6, 2005 through May 23, 2005, Respondent purchased, received, and accepted, in interstate and foreign commerce, from 7 sellers, 53 lots of perishable agricultural commodities, but failed to make full payment promptly of the agreed purchase prices in the total amount of \$411,375.80.

A copy of the amended complaint¹ was mailed by the Hearing Clerk to Respondent by certified mail on October 24, 2006, and was signed for by Jackie Deane, Respondent's 100 percent shareholder, on November 7, 2006. Therefore, Respondent was served with a copy of the amended complaint pursuant to Section 1.147 of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted By The Secretary (hereinafter "Rules of Practice") (7 C.F.R.

¹ Prior to the filing of the amended complaint, a copy of the original complaint was served upon respondent in October 2006. Respondent did not answer that complaint.

purchase prices in the total amount of \$411,375.80.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.
2. For the reasons set forth in the above Findings of Fact, the Respondent's failure to make full payment promptly to seven (7) sellers for 53 lots of perishable agricultural commodities in the total amount of \$411,375.80 constitutes willful, flagrant and repeated violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)).

ORDER

A finding is made that Respondent has committed willful, flagrant and repeated violations of Section 2 of the Act (7 U.S.C. § 499b(4)), 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 governing procedures under the Act, 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.
February 7, 2007

PETER M. DAVENPORT

Administrative Law Judge