

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	PACA Docket No. D-08-0044
)	
Timothy C. York d/b/a)	
T & R Fresh Produce,)	
)	Proposed Decision Without
Respondent)	Hearing by Reason of Default

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*), (the “PACA”), instituted by a Complaint filed on January 11, 2008, by the Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. The Complaint alleges that during the period of June 12, 2005 through May 17, 2006, Respondent Timothy C. York, d/b/a T & R Fresh Produce, (“Respondent”), violated Section 2(4) of the PACA by failing to make full payment promptly in the total amount of \$536,092.91 for perishable agricultural commodities that Respondent purchased, received and accepted in the course of, or in contemplation of, interstate and foreign commerce. The time for filing an answer having expired, and upon Complainant’s motion for the issuance of a default decision, the following Decision and Order shall be issued without further investigation or hearing pursuant to Section 1.139 of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent Timothy C. York, doing business as T & R Fresh Produce, is an individual doing business in the State of California.

2. Pursuant to the licensing provision of the PACA, license number 19901814 was issued to Respondent on August 30, 1990. The license terminated on August 30, 2006, 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. As more fully set forth in paragraph III of the Complaint, incorporated by reference herein, during the period June 12, 2005, through May 17, 2006, Respondent failed to make full payment promptly to thirty sellers of the agreed purchase prices, or balances thereof, in the total amount of \$536,092.91 for 401 lots of perishable agricultural commodities that Respondent purchased, received, and accepted in the course of, or in contemplation of, interstate and foreign commerce.

Conclusions

Respondent's failure to make full payment promptly with respect to the transactions described in Finding of Fact No. 3 above constitutes willful, repeated, and flagrant violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)).

Order

A finding is made that the Respondent Timothy C. York, doing business as T & R Fresh Produce, has committed willful, flagrant, and repeated violations of Section 2 of the PACA (7 U.S.C. § 499b(4)), and the facts and circumstances of the violations shall be published.

This Order shall take effect on the eleventh day after this Decision becomes final.

Pursuant to the Rules of Practice, this Decision will become final without further proceedings thirty-five days after service hereof unless appealed to the Secretary by a party to the proceeding within thirty days after service as provided in Sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139, 1.145).

Copies hereof shall be served upon the parties.

Done at Washington, D.C.

this 25th day of March, 2008

Marc R. Hillson
ADMINISTRATIVE LAW JUDGE