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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
) PACA Docket No. D-09-0109
Juniper Tree, Inc., d.b.a. Best)
Produce)
)
Respondent) Decision Without Hearing by
) Reason of Consent

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*) (PACA) and the regulations issued thereunder (7 C.F.R. Part 46)(the regulations), instituted by a Complaint filed on May 6, 2009, by the Acting Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture.

The Complaint alleged that during the period of February 8, 2007 to December 28, 2007, Respondent failed to make full payment promptly to 25 sellers of the agreed purchase prices, or the balance of those prices, in the total amount of \$529,376.53 for 76 lots of perishable agricultural commodities which Respondent purchased, received, and accepted in the course of interstate foreign commerce.

The Complaint requested that pursuant to section 8(a) of the PACA (7 U.S.C. § 499h(a)), the Administrative Law Judge find that Respondent has willfully, flagrantly, and repeatedly violated section 2(4) of the PACA (7 U.S.C. § 499b(4)), and order that Respondent's license be revoked.

A copy of the Complaint was served upon Respondent, which filed an Answer that denied the Complaint's allegations.

Respondent and Complainant have now agreed to the entry of a Decision Without Hearing by Reason of Consent as to these allegations as set forth herein. Therefore, this Decision Without Hearing by Reason of Consent is entered without further procedure or hearing pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 *et seq.*) (Rules of Practice)

Findings of Fact

1. Respondent Juniper Tree, Inc., d.b.a. Best Produce (Respondent), is a corporation incorporated and existing under the laws of New York. Respondent ceased operations, on or about, February 29, 2008. Respondent's last known business and mailing address was 1240 Oak Point Avenue, Bronx, New York 10474-6804.

2. At all times material to this complaint, Respondent was licensed as a corporation under PACA License No. 2003-0200. This license was issued to Respondent on November 13, 2002. The license is due for renewal on November 13, 2009 pursuant to section 4(a) of the PACA (7 U.S.C. § 499d(a)). This license was suspended on February 1, 2008 pursuant to section 7(d) of the PACA (7 U.S.C. § 499g(d)), for unpaid reparation awards.

3. During the period of February 8, 2007 to December 28, 2007, on or about the dates set forth in the Complaint, Respondent failed to make full payment promptly to 25 sellers of the agreed purchase prices, or the balance of those prices, in the total amount of \$529,376.53 for 76 lots of perishable agricultural commodities which Respondent purchased, received, and accepted in the course of interstate foreign commerce.

Conclusions

Respondent admits the jurisdictional allegations in paragraph II of the Complaint and specifically admits that the Secretary has jurisdiction in this matter, and neither admits nor denies the remaining allegations of the Complaint. Respondent waives oral hearing and further procedure, and consents to the entry of the following order.

Order


Respondent is found to have engaged in willful, repeated and flagrant violation of section 2(4) of the PACA (7 U.S.C. § 499b(4)) for failing to make full payment promptly of the agreed purchase prices for the perishable agricultural commodities that Respondent purchased, received, and accepted in interstate commerce.


Respondent's license is revoked pursuant to section 8(a) of the PACA (7 U.S.C. § 499h(a)).


This order shall become final upon issuance. Copies of this order shall be served upon the parties.


Done at Washington, D.C.


this 19th of AUGUST, 2009


Administrative Law Judge


Robert C. Keeney
Deputy Administrator
Fruit and Vegetable Programs
Agricultural Marketing Service


Young Suk, President
for Respondent


Paul Gentile, Esq.
Attorney for Respondent


Jonathan D. Gordy, Esq.
Attorney for Complainant