

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) PACA Docket No. D-09-0039
)
Fresh Harvest International, Inc.)
)
Respondent) Decision Without Hearing by
) Reason of Consent

Preliminary Statement

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 December 2, 2008, by the Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture.

The Complaint alleged that Fresh Harvest International, Inc. (Respondent), while acting as a grower's agent, failed to make full payment of the agreed net proceeds, or balances thereof, within 30 days after receipt of the goods from the principal in the total amount of \$655,285.39 for 318 lots of perishable agricultural commodities, which Respondent distributed in the course of interstate 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. Respondent has since allowed its license to terminate.

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. Fresh Harvest International, Inc. (Respondent), is a corporation incorporated and existing under the laws of the State of Florida. Respondent's last known business address was 318 Indian Trace Unit 704, Weston, Florida, 33326. Respondent ceased business operations during late September 2007.

2. At all times material to this decision, Respondent was licensed under the provisions of the PACA. License number 19990537 was issued to Respondent on February 17, 1999. This license terminated on February 17, 2009, pursuant to Section 4(a) of the PACA (7 U.S.C. '499d(a)), when Respondent failed to pay the required annual renewal fee.

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

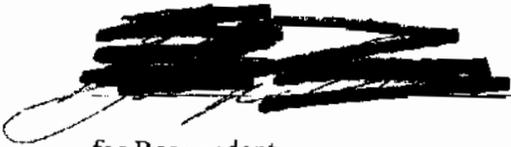
Respondent is found to have engaged in willful, repeated and flagrant violation of Section 2(4) of the PACA (7 U.S.C. § 499b(4)) by failing to make full payment of the agreed net proceeds, or balances thereof, within 30 days after receipt of perishable agricultural commodities from its principals, which Respondent distributed in the course of interstate commerce.

The facts and circumstances of these violations shall be published pursuant to Section 8(a) of the PACA (7 U.S.C. § 499h(a)).

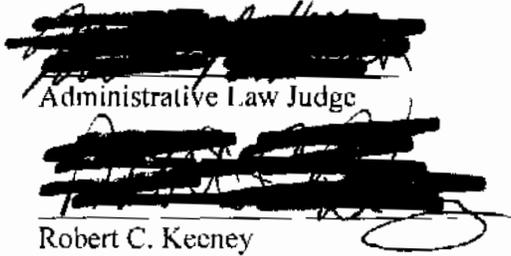
This order shall become final upon issuance. Copies of this order shall be served upon the parties.

Done at Washington, D.C.

this 16th of September, 2009



for Respondent

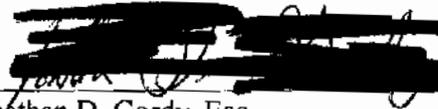


Administrative Law Judge

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



Louis Espino, Esq.
Attorney for Respondent



Jonathan D. Gordy, Esq.
Attorney for Complainant