

**UNITED STATES DEPARTMENT OF AGRICULTURE**  
**BEFORE THE SECRETARY OF AGRICULTURE**

PACA Docket No. D-06-0008

In re: Joe's Vegetables, Inc.,  
Respondent

Decision Without Hearing  
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.) ("PACA"), instituted by a Complaint filed on July 26, 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 of November 2002 through March 2004, Respondent Joe's Vegetables, Inc. ("Respondent") failed to make full payment promptly to a seller of the agreed purchase prices in the total amount of \$473,641.53 for 36 invoices of perishable agricultural commodities which Respondent sold in the course of interstate and foreign commerce.

A copy of the Complaint was sent to Respondent by certified mail on April 5, 2006, and it was returned to the Hearing Clerk as "unclaimed" on May 11, 2006. Accordingly, pursuant to the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 et seq.) ("Rules of Practice"), the Hearing Clerk re-mailed the Complaint using regular mail on May 22, 2006. That mailing by regular mail is deemed to constitute service on Respondent pursuant to section 1.147(c) of the Rules of Practice (7 C.F.R. § 1.147(c)). Respondent has not answered the Complaint. The time for filing an answer having run, and upon the motion of Complainant for the issuance of a decision without hearing by reason of default, the following decision and order is 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. Joe's Vegetables, Inc., ("Respondent") is a corporation organized and existing under the laws of the State of California. Respondent ceased operating on January 31, 2005. Its business address was 454 San Felipe Road, Hollister, California 95023. Its mailing address was P. O. Box 2494, Hollister, California 95024-2494.

2. At all times material to this Decision, Respondent was licensed under the provisions of the PACA. License number 1994-1439 was issued to Respondent on June 20, 1994. This license terminated on June 20, 2005, pursuant to Section 4(a) of the PACA (7 U.S.C. §499(a)) when Respondent failed to pay the required annual renewal fee.

3. Respondent picked, and took delivery in the field, of multiple lots of mixed vegetables, which are perishable agricultural commodities, from the grower, Mission Ranches, in King City, California, during the period of November 2002 through February 2004. The grower later invoiced Respondent for those vegetables on dates from November 19, 2002, through March 10, 2004. Respondent has failed to make full payment promptly of the agreed purchase prices in the total amount of \$473,641.53 for those 36 invoices of perishable agricultural commodities, which Respondent processed and sold in the course of interstate and foreign commerce.

### **Conclusions**

Respondent's failure to make full payment promptly with respect to the 78 transactions set forth in Finding of Fact 3 above, constitutes 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 it is served unless a party to the proceeding appeals the Decision to the Secretary 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 of this Decision shall be served upon the parties.

Done at Washington, D.C.  
October 25, 2006

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**PETER M. DAVENPORT**  
Administrative Law Judge