

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

PACA Docket No. D-10-0361

In re: Mas Por Menos, LLC,

Respondent

Default Decision and Order

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 August 5, 2010, 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 August 2007 through September 2008, Respondent Mas Por Menos, LLC (Respondent) failed to make full payment promptly to 10 sellers of the agreed purchase prices, or the balance of those prices, in the total amount of \$251,735.80 for 75 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in the course of interstate or foreign commerce.

A copy of the Complaint was served upon Respondent by certified mail on August 9, 2010. 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 Findings of Fact, Conclusions of Law and Order will be issued without further investigation or hearing pursuant to section 1.139 (7 C.F.R. § 1.139) 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 is a limited liability company organized and existing under the laws of North Carolina. Respondent's business address was in Huntersville, NC.
2. At all times material to this complaint, Respondent was licensed as a corporation under PACA License No. 20051192. This license was issued to Respondent on August 23, 2005, and Respondent's license terminated on August 23, 2008 pursuant to section 4(a) of the PACA (7 U.S.C. § 499d(a)) when Respondent failed to pay the annual renewal fee.
3. During the period of August 2007 through September 2008, Respondent failed to make full payment promptly to 10 sellers of the agreed purchase prices, or the balance of those prices, in the total amount of \$251,735.80 for 75 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in the course of interstate or foreign commerce.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. Respondent's failure to make full payment promptly with respect to the 172 transactions set forth in Finding of Fact No. 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 those violations will be published.

Order

Respondent Mas Por Menos, LLC is found to have committed willful, repeated and flagrant violations of section 2(4) of the PACA (7 U.S.C. § 499b(4)), and the facts and circumstances of the violations set forth above 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.

February 23, 2011

PETER M. DAVENPORT
Administrative Law Judge