

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

AMAA Docket No. 10-0383

In re: Nor Cal Raisin Packing, Inc.,

Respondent.

**Default Decision and Order**

**Preliminary Statement**

This proceeding was instituted under the Agricultural Marketing Agreement Act of 1937, as amended, 7 U.S.C. § 601 et seq. (Act), the Marketing Order for Raisins Produced from Grapes Grown in California, 7 C.F.R. §§ 989.1-989.95 (the "Order"), and the Rules and Regulations issued pursuant to the Act, 7 C.F.R. §§ 989.102-989.801 (the "Regulations"), alleging that the respondent violated the Act, the Order, and the Regulations.

A copy of the complaint was served on the respondent by the Office of the Hearing Clerk. Respondent was informed that an answer should be filed pursuant to the Rules of Practice and that failure to answer any allegation in the complaint would constitute an admission of that allegation. Respondent failed to file an answer within the time prescribed in the Rules of Practice, and the Complainant has moved for entry of a decision based upon admission of facts by reason of default. Accordingly, the following Findings of Fact, Conclusions of Law and Order will be entered pursuant to section 1.139 of the Rules of Practice, 7 C.F.R. § 1.139.

### **Findings of Fact**

1. Nor Cal Raisin Packing, Inc., is a corporation whose business mailing address is in Madera, California. At all times mentioned herein, respondent was engaged in the business as a "handler" of California raisins as that term is defined in the Act and the Order.
2. The respondent violated section 989.66 of the Order (7 C.F.R. § 989.66) and section 989.166 of the Regulations (7 C.F.R. § 989.166), by failing to hold in reserve approximately 4.072 tons of California raisins, and by failing to pay to the Raisin Administrative Committee (RAC) \$5,334.32, the dollar equivalent of the California raisins that were not held in reserve for the 2008-2009 crop year.
3. The respondent violated section 989.66 of the Order (7 C.F.R. § 989.66) and section 989.166 of the Regulations (7 C.F.R. § 989.166), by failing to hold in reserve approximately 2.22 tons of California raisins, and by failing to pay to the RAC \$2,937.06, the dollar equivalent of the California raisins that were not held in reserve for the 2009-2010 crop year.

### **Conclusions of Law**

1. The Secretary has jurisdiction in this matter.
2. The following Order is authorized by the Act and the Order and is warranted under the circumstances.

### **Order**

1. Respondent, its agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Act, the Order and the Rules and Regulations issued thereunder, and in particular, shall cease and desist from failing to hold raisins in reserve during crop years in which reserves are in effect.

2. Respondent shall pay the dollar equivalent of \$8,271.38 for the California raisins that were not held in reserve for the 2008-2009 and 2009-2010 crop years.
3. Respondent is assessed a civil penalty of \$2,200.00, which shall be paid by a certified check or money order made payable to the Treasurer of the United States.<sup>1</sup>
4. The provisions of this order shall become effective on the first day after this decision becomes final.
5. Pursuant to the Rules of Practice, this decision becomes final without further proceedings 35 days after service as provided in section 1.142 and 1.145 of the Rules of Practice, 7 C.F.R. §§ 1.142 and 1.145.

Copies of this decision shall be served upon the parties.

February 28, 2011

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**PETER M. DAVENPORT**  
Chief Administrative Law Judge

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<sup>1</sup> Pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461 note, the penalty in section 608c(14)(B) of the Act was increased to \$1,100. 7 C.F.R. § 3.91(b)(vii).