

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	PACA Docket No. D-05-0015
)	
Dee Produce Corp.,)	
)	Decision Without Hearing
Respondent)	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.; APACA), 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 April 2004 through November 2004, Respondent Dee Produce Corp. (Respondent) failed to make full payment promptly to fourteen sellers of the agreed purchase prices in the total amount of \$1,043,253.70 for 162 lots of perishable agricultural commodities which it purchased, received, and accepted in interstate and foreign commerce.

A copy of the complaint was served upon Respondent by certified mail on July 29, 2005. 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 Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. et seq.; hereinafter ARules of Practice).

Findings of Fact

1. Respondent is a corporation organized and existing under the laws of the Commonwealth of Puerto Rico. Its business address is Nave #5, Plaza Del Mecado, Caguas, Puerto Rico 00725. Its mailing address is PMB 199 Box 4956, Caguas, Puerto Rico 00725.

2. At all times material to this order, Respondent was licensed under the provisions of PACA. PACA license number 19911097 was issued to respondent on May 15, 1991. The license terminated on May 16, 2005, pursuant to Section 4(a) of the PACA (7 U.S.C. § 499d(a)), when Respondent failed to pay the required annual renewal fee.

3. During the period April 2004 through November 2004, Respondent purchased, received and accepted in interstate commerce from fourteen (14) sellers for 162 lots of fruits and vegetables, all being perishable agricultural commodities, but failed to make full payment promptly of the agreed purchase prices in the total amount of \$1,043,253.70.

Conclusions

Respondent's failure to make full payment promptly with respect to the 162 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 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, DC
this 9th day of November, 2005

MARC R. HILLSON
Administrative Law Judge