

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0232

In re: Baker Walnut, 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 Walnuts Grown in California, 7 C.F.R. §§ 984.1-984.347 (the "Order"), and the Rules and Regulations issued pursuant to the Order, 7 C.F.R. §§ 984.437-984.480 (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 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. Baker Walnut, Inc. is a California corporation whose business mailing address is in Modesto, California. At all times mentioned herein, Respondent was engaged in the business as a "handler" of California walnuts as that term is defined in the Act and the Order.
2. During crop year 2010-2011, Respondent failed to pay assessments on demand to the California Walnut Board in the amount of \$9,242.18.

Conclusions

1. The Secretary has jurisdiction in this matter.
2. Respondent violated section 984.69 of the Order (7 C.F.R. § 984.69).

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 pay assessments to the California Walnut Board for walnuts handled, as required.
2. Respondent shall pay all past due assessments to the California Walnut Board for walnuts handled during crop year 2010-2011, in the amount of \$9,242.18.
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.¹
4. The provisions of this order shall become effective on the first day after this decision becomes final.

¹ 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).

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.

Peter M. Davenport
Chief Administrative Law Judge