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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
)
Paul O. Rangel,) PACA Docket No. APP-12-0162
)
and)
)
Randall E. Lintz,) PACA Docket No. APP-12-0163
)
Petitioners)

DECISION WITHOUT HEARING BY REASON OF CONSENT

These are two responsibly connected proceedings under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.; PACA), consolidated for hearing by Administrative Law Judge Janice Bullard on March 7, 2012.

On July 19, 2011, a default reparation award was issued against the company Smokey Mountain Produce, LLC (Smokey Mountain), and on August 25, 2011, Smokey Mountain's PACA license was suspended for failure to pay the reparation award pursuant to section 7(d) of the PACA (7 U.S.C. § 499g(d)). On December 7, 2011, the PACA Division (then the PACA Branch) of the Agricultural Marketing Service made the determination that Paul O. Rangel and Randall E. Lintz were responsibly connected to Smokey Mountain under section 1(b)(9) of the PACA (7.U.S.C. § 499a(b)(9)) at the time the default reparation award was issued. Mr. Rangel and Mr. Lintz both filed Petitions for Review of this determination on January 6, 2012, and denied in the Petitions that they were responsibly connected to Smokey Mountain.

Petitioners agree that the Secretary has jurisdiction in this matter, neither admit nor deny responsible connection, and the parties now agree, for the purpose of settling this matter, and for that purpose only, to the entry of a Decision Without Hearing by Reason of Consent as set forth

herein. Therefore, this Decision Without Hearing by Reason of Consent is entered without further procedure or hearing pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 et seq.; hereinafter “Rules of Practice”) applicable to this proceeding (7 C.F.R. §1.138).

Findings of Fact

1. On July 19, 2011, a default reparation award was issued against Smokey Mountain Produce, LLC (Smokey Mountain), and on August 25, 2011, Smokey Mountain’s PACA license was suspended for failure to pay the reparation award pursuant to section 7(d) of the PACA (7 U.S.C. § 499g(d)).

2. At the time the default reparation award was issued and Smokey Mountain’s PACA license was suspended, Petitioner Paul O. Rangel was listed in PACA license records as vice president and 20 percent shareholder of the company.

3. At the time the default reparation award was issued and Smokey Mountain’s PACA license was suspended, Petitioner Randall E. Lintz was listed in PACA license records as secretary, treasurer, and 20 percent shareholder of the company.

Order

Petitioners Paul O. Rangel and Randall E. Lintz are both found to be responsibly connected to Smokey Mountain Produce, LLC., at the time the company failed to pay a default reparation award. Employment sanctions under section 8(b) of the PACA (7 U.S.C. § 499h) shall begin immediately upon service of this Decision on the Petitioners.

This Consent Decision, the findings of fact, the finding of responsible connection, and

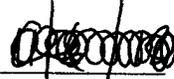
the sanction imposed herein will not have the effect of *res judicata* in any other forum.

This Order shall become final upon issuance. Copies of this Order shall be served upon the parties.



Bruce W. Summers
Associate Deputy Administrator
Fruit and Vegetable Program
Agricultural Marketing Service

11/13/12



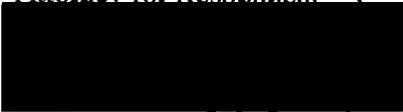
Date signed



Christopher Young, Esq.
Attorney for Respondent

11/1/12

Date signed



Andrew Peretz, Esq.
Attorney for Petitioners

11/6/12

Date signed

Done at Washington, D.C.

this 19th day of November, 2012



 Janice K. Bullard
Administrative Law Judge