

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0612

In re: Delta Produce, LP,

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.)(the Act or PACA), instituted by a Complaint filed on August 29, 2012, by the Associate Deputy Administrator, Fruit and Vegetable Program, Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA).

The Complaint filed by Complainant alleges that Respondent, during the period December 2010 through January 2012, failed to make full payment promptly to 56 sellers of the agreed purchase prices in the total amount of \$1,504,393.94 for 198 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in interstate and foreign commerce and seeks findings that the failure of Respondent to make full payment promptly, of the agreed purchase prices for perishable agricultural commodities that it purchased, received and accepted in interstate and foreign commerce, constitutes willful, flagrant and repeated violations of section 2(4) of the PACA (7 U.S.C. § 499b(4)) and entry of an order that the facts and circumstances of the violations be published.

The Complaint was served upon Respondent by certified mail on September 20, 2012. R. § 1.130 *et seq.*(Rules of Practice), and Respondent's answer was due on October 10, 2012. Respondent failed to file an answer to the Complaint within the 20 day time period prescribed by

section 1.136 of the Rules of Practice (7 C.F.R. § 1.136) and upon Motion of the Complainant, 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. Delta Produce, L.P. (Respondent) is or was a limited partnership formed and existing under the laws of the state of Texas, with a business address in San Antonio, Texas.
2. At all times material herein, Respondent was licensed under and operating subject to the provisions of the PACA. License number 2007 0895 was issued to Respondent on May 21, 2007. This license terminated on its anniversary date, May 21, 2012, when respondent failed to submit the required annual fee pursuant to section 4(a) of the PACA (7 U.S.C. § 499d(a)).
3. Respondent, during the period December 2010 through January 2012, failed to make full payment promptly of the agreed purchase prices, or balances thereof, for 198 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in the course of interstate and foreign commerce from 56 sellers, in the total amount of \$1,504,393.94.

### **Conclusions of Law**

1. The Secretary has jurisdiction in this matter.
2. Respondent willfully, flagrantly and repeatedly violated of section 2(4) of the PACA (7 U.S.C. § 499b(4)).

### **Order**

1. The facts and circumstances of Respondent's violations shall be published.
2. This Order shall take effect on the day that this Decision becomes final.

3. Pursuant to the Rules of Practice governing procedures under the Act, this Decision will become final without further proceedings 35 days after service hereof unless appealed to the Secretary by a party to the proceeding 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 hereof shall be served upon parties.

January 15, 2013

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**Peter M. Davenport**  
Chief Administrative Law Judge