

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. D-12-0555

In re: United Potato Distributors, Inc.,
d/b/a United Distributors, Inc.,

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 July 27, 2012, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA).

The Complaint filed by Complainant alleges that Respondent, during the period November 2010 through January 2012, failed to make full payment promptly to 39 sellers of the agreed purchase prices in the total amount of \$759,820.22 for 587 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in interstate and foreign commerce. The Complaint requested that the Administrative Law Judge find that Respondent willfully, flagrantly and repeatedly violated section 2(4) of the PACA (7 U.S.C. § 499b(4)), revoke Respondent's PACA license¹, and order that the facts and circumstances of the violations be published.

¹ The request to revoke Respondent's license was made at the time of the filing of the Complaint because at the time, Respondent's PACA license was viable, as Respondent was under a license renewal grace period granted by the AMS. Respondent's grace period has since expired (without

The Complaint was sent by the Hearing Clerk certified mail and service was effective on September 19, 2012. Respondent failed to file an answer and the following Finding of Fact, Conclusions of Law and Order will be pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings Of Fact

1. Respondent is a corporation organized and existing under the laws of the State of California with a business address in Los Angeles, California.
2. At all times material herein, Respondent was licensed under the provisions of the PACA. License number 1975-0004 was issued to Respondent on July 1, 1974. The license was suspended on April 13, 2012, when Respondent failed to pay a reparation award pursuant to section 7(d) of the PACA (7 U.S.C. § 499g(d)). Subsequently, Respondent failed to renew the license by its renewal date of July 1, 2012. Respondent's license terminated on July 1, 2012, 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 November 2010 through January 2012, Respondent failed to make full payment promptly to 39 sellers of the agreed purchase prices in the total amount of \$759,820.22 for 587 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in interstate and foreign commerce.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.

Respondent paying the renewal fee), and Respondent's license terminated on July 1, 2012, pursuant to section 4(a) of the PACA (7 U.S.C. § 499d(a)), when Respondent failed to pay the required annual renewal fee.

2. Respondent willfully, flagrantly and repeatedly violated 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 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.

February 5, 2013

Peter M. Davenport
Chief Administrative Law Judge