

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0525

In re: Lucas Brothers, 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 17, 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 March 2010 through November 2010, failed to make full payment promptly to nine (9) sellers of the agreed purchase prices in the total amount of \$242,386.07 for 42 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in interstate and foreign commerce.

The Complaint requests that pursuant to section 8(a) of the PACA (7 U.S.C. § 499h(a)), the Administrative Law Judge find that Respondent willfully, flagrantly and repeatedly violated section 2(4) of the PACA (7 U.S.C. § 499b(4)), and order that the facts and circumstances of the violations be published.

The Complaint was sent to Respondent by the Hearing Clerk certified mail and returned as “unclaimed”. On August 16, 2012, consistent with the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted By The Secretary (7 C.F.R. § 1.130 *et seq.*)(Rules of Practice), the Hearing Clerk’s Office re-mailed a copy of the Complaint and the

Rules of Practice by regular mail. Respondent failed to answer 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. Respondent is a corporation organized and existing under the laws of the State of Florida and had a business and mailing address in Riverview, Florida.

2. At all times material herein, Respondent was licensed under the provisions of the PACA. License number 20080074 was issued to Respondent on October 15, 2007. The license terminated on October 15, 2010, 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. Respondent, during the period March 2010 through November 2010, failed to make full payment promptly to nine (9) sellers of the agreed purchase prices in the total amount of \$242,386.07 for 42 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.

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 7, 2013

Peter M. Davenport
Chief Administrative Law Judge