

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 13-0056

In re: Mister Bee Potato Chip Company,

Respondent

Default Decision and Order

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agriculture Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*)(PACA), instituted by a Complaint filed on October 25, 2012, by the Associate Deputy Administrator, Fruit and Vegetable Program, Agricultural Marketing Service, United States Department of Agriculture. The Complaint alleged that during the period October 27, 2010, through September 9, 2011, Respondent Mister Bee Potato Chip Company (Respondent) failed to make full payment promptly of the agreed purchase price for 52 lots of perishable agricultural commodities, which it purchased, received, and accepted in interstate commerce from 2 sellers, in the total amount of \$287,519.27.

A copy of the Complaint was mailed to the address of Respondent's Chairman/CEO by certified mail, and was delivered on October 29, 2012. 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 Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 *et seq.*) (Rules of Practice).

Findings of Fact

1. Mister Bee Potato Chip Company is a corporation incorporated and existing under the laws of the State of West Virginia with a former business address in Parkersburg, West Virginia.
2. At all times material herein, Respondent was licensed under the provisions of the PACA. License number 19129187 was issued to Respondent on July 25, 1950. This license terminated on July 25, 2012, pursuant to section 4(a) of the PACA (7 U.S.C. §499(a)), when Respondent failed to pay the required annual renewal fee.
3. During the period August 11, 2009, through May 27, 2010, Respondent failed to make full payment promptly of the agreed purchase prices, or balances thereof, for 52 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in the course of interstate and foreign commerce from 2 sellers, in the total amount of \$287,519.27.

Conclusions of Law

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

Order

1. The facts and circumstances of the 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 the parties.

February 7, 2013

Peter M. Davenport
Chief Administrative Law Judge