

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0276

In re: Hunts Point Tropicals, Inc.,

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 March 6, 2012, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. The Complaint alleged that during the period July 19, 2010 through June 1, 2011, Respondent Hunts Point Tropicals, Inc. failed to make full payment promptly of the agreed purchase price for 435 lots of perishable agricultural commodities, which it purchased, received, and accepted in interstate and foreign commerce from 43 sellers, in the total amount of \$1,216,739.97.

A copy of the Complaint was mailed to the address of Respondent's attorney by certified mail, and was delivered on March 14, 2012. Respondent failed to file an Answer and upon motion of the Complainant for the issuance of a Default Order, 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. Respondent Hunts Point Tropicals, Inc. is a corporation organized and existing under the laws of the State of New York.
2. At all times material herein, Respondent was licensed under the provisions of the PACA. License No. 1999 1473 was issued to Respondent on July 30, 1999. This license terminated on July 30, 2011, 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 July 19, 2010 through June 1, 2011, on or about the dates set forth in the Complaint, Respondent failed to make full payment promptly to 43 sellers of the agreed purchase prices, or balances thereof, in the total amount of \$1,216,739.97 for 435 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in the course of interstate commerce and foreign commerce.

### **Conclusions of Law**

1. The Secretary has jurisdiction in this matter.
2. Respondent willfully, repeatedly and flagrantly violated 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 Order shall take effect on the 11<sup>th</sup> day after this Decision becomes final.
3. Pursuant to the Rules of Practice, 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 of the Decision and Order shall be served upon the parties.

April 9, 2013

*Peter M. Davenport*

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