

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 13-0292

In re: Lombardo Imports, 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 July 19, 2013, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. The Complaint alleged that during the period November 10, 2009 through January 6, 2012, Lombardo Imports, Inc.(Respondent) failed to make full payment promptly of the agreed purchase price for 331 lots of perishable agricultural commodities, which it purchased, received, and accepted in interstate and foreign commerce from 51 sellers, in the total amount of \$738,006.11.

A copy of the Complaint served upon Respondent by certified mail on July 25, 2013. Respondent thereafter requested and was granted an extension of time in which to file an Answer to the Complaint but failed to do so. On November 19, 2013, Complainant filed a Motion for decision without hearing by reason of default. The time for filing an Answer having expired, 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. Lombardo Imports, Inc. (Respondent) is a corporation incorporated and existed under the laws of Nevada with a mailing address in Las Vegas, Nevada.
2. As Respondent is not currently operating, the entity was served at the address of its principal and 100% owner, Thomas Lombardo.
3. At all times material herein, Respondent was licensed under and operating subject to the provisions of the PACA. License number 2001 0159 was issued to Respondent on October 16, 2001. This license terminated on October 16, 2011, pursuant to section 4(a) of the PACA (7 U.S.C. § 499d(a)), when Respondent failed to pay the required annual fee.
4. During the period November 10, 2009 through January 6, 2012, on or about the dates and in the transactions set forth in Appendix A to the Complaint and incorporated therein by reference, failed to make full payment promptly to one seller of the agreed purchase prices, or balances thereof, for 331 lots of perishable agricultural commodities which Respondent purchased, received, and accepted in the course of interstate commerce, in the total amount of \$738,006.11.

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 11th 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 this Default Decision and Order shall be served upon the parties.

December 20, 2013

Peter M. Davenport

Peter M. Davenport
Chief Administrative Law Judge