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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) PACA Docket No. D-18-0026
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)
Goodness Greeness, Inc.,)
)
)
Respondent)

Consent Decision and Order

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*) (PACA). The Complaint in this case, filed on April 10, 2018, alleged that Respondent committed willful, flagrant and repeated violations of section 2(4) of the PACA by failing to make full payment promptly to 12 sellers of the agreed purchase prices in the total amount of \$259,993.68 for 81 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in the course of interstate and foreign commerce, during the period of April 2016 through June 2016. The Complaint sought the issuance of an order finding that Respondent had committed willful, flagrant and repeated violations of section 2(4) of the PACA, and publishing the facts and circumstances of the violations pursuant to section 8(a) of the PACA (7 U.S.C. § 499h(a)).

The Complaint was served upon Respondent, and Respondent agrees that the Secretary has jurisdiction in this matter and waives all further proceedings in this matter. Respondent further waives all rights to seek judicial review and otherwise challenge or contest the validity of this decision, including waiving challenges to the Administrative Law Judge's authority to enter this Decision and Order under the Administrative Procedure Act and the Constitution of the

United States, and waives any action against the United States Department of Agriculture under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 *et seq.*) for fees and other expenses incurred by Respondent in connection with this proceeding or any action against any USDA employee in their individual capacity.

The parties have now agreed to the entry of a Consent Decision and Order as set forth herein; therefore, this Consent Decision and Order is entered without further procedure or hearing pursuant to the consent decision provisions (7 C.F.R. §1.138) 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) applicable to this proceeding.

Findings of Fact

1. Respondent is or was a corporation organized and existing under the laws of the state of Illinois. Respondent's business and mailing address is or was 5959 S Lowe, Chicago Illinois, 60621-2832.

2. At all times material herein, Respondent was licensed and/or operating subject to the provisions of the PACA. License number 19911534 was issued to Respondent on August 5, 1991. The license terminated on August 5, 2017, 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 April 2016 through June 2016, on or about the dates and in the transactions set forth in Appendix A to the Complaint, failed to make full payment promptly to 12 sellers for 81 lots of perishable agricultural commodities which Respondent purchased, received, and accepted in interstate and foreign commerce, in the total amount of \$259,993.68.

Conclusions

Respondent's failure to make full payment promptly to 12 sellers of the agreed purchase prices of the perishable agricultural commodities described in Finding of Fact paragraph 3, above, constitutes willful, flagrant, and repeated violations of section 2(4) of the PACA (7 U.S.C. § 499b(4)).

Order

A finding is issued that Respondent has engaged in willful, flagrant, and repeated violations of the PACA, and Respondent's PACA violations shall be published pursuant to section 8(a) of the PACA (7 U.S.C. § 499h(a)). However, this finding and publication shall be held in abeyance so long as Respondent pays the produce sellers listed in Appendix A to the Complaint the balance of the full amounts owed to each seller, as listed in Appendix A to the Complaint, and referenced in Finding of Fact paragraph 3 above, within 30 days of the effective date of this Consent Decision and Order.

The PACA Division, Fair Trade Practices Program, Agricultural Marketing Service shall be the final arbiter of whether the produce sellers have been paid in the amounts listed in Appendix A to the Complaint. It will be Respondent's obligation to demonstrate that full payment as described above has been made.

Once full payment to the produce sellers listed in Appendix A is made, Respondent shall pay, within 10 days after the date of demonstration of full payment to the sellers, a civil penalty in the amount of \$36,000.00. Payment shall be by certified check or bank check made payable to the "United States Treasury" and delivered to the United States Department of Agriculture, PACA Division, 1400 Independence Avenue, S.W. Room 1510 South Bldg., Stop 0242 Washington, D.C. 20250-0242.

If full payment of the produce sellers is made within the 30 days stated above, and Respondent pays the \$36,000.00 civil penalty as described above, the finding of willful, flagrant, and repeated violations of the PACA and the publication of Respondent's violations as stated at the beginning of the Order above will be permanently abated, and the case will be closed.

If full payment to the sellers in the amounts listed in the Appendix A to the Complaint and as described in Finding of Fact paragraph 3 above, and subsequent payment of the \$36,000.00 civil penalty is not made in the manner described above, then the finding of willful, flagrant, and repeated violations and the publication of Respondent's PACA violations will no longer be held in abeyance and will be made without further proceeding, *except* notice by Complainant, informing the Administrative Law Judge that Respondent has failed to comply with the terms of the Consent Decision and Order, and requesting that the finding and publication at stated at the beginning of the Order above no longer be held in abeyance.

This Order shall become effective upon issuance.

Copies hereof shall be served upon parties.

[Redacted signature area]

Christopher Young, Esq.
Attorney for Complainant

6-13-18
Date signed

[Redacted signature area]

Mary Jean Fassett, Esq.
Attorney for Respondent

6-12-18
Date Signed

Done at Washington, D.C.

this 19th day of June, 2018

[Redacted signature area]

Acting Chief Administrative Law Judge

Channing D. Strother