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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	PACA Docket No. D–16-0041
	)	
	)	
Felda Vegetable Farms, 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 filed herein, on February 2, 2016, alleged that Respondent had committed willful, flagrant and repeated violations of section 2(4) of the PACA by failing to make full payment promptly to six (6) sellers of the agreed purchase prices in the total amount of $232,346.85 for 36 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in the course of interstate and foreign commerce, during the period of March, 2014, through June, 2015. 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 revocation of Respondent's PACA license pursuant to section 8(a) of the PACA (7 U.S.C. § 499h(a)).

The Complaint was served upon Respondent and Respondent filed a timely Answer to the Complaint wherein it generally denied the allegations. In particular, Respondent showed that there was a dispute over the amount of debt owed to DiMare Homestead, Inc. (Dimare), a seller listed in the Complaint. Respondent showed that the dispute over the amount of produce debt owed to Dimare was the subject of a prior-filed action in United States District Court, Middle

District of Florida. Respondent also demonstrated that the matter in District Court has been resolved since the filing of the PACA disciplinary Complaint in this case. To facilitate the instant agreement between the parties, Complainant acknowledges the dispute in District Court and its resolution, and agrees to consider any debt owed to DiMare, arising from the transactions alleged in both forums, fully satisfied and paid.

The parties agree that the Secretary has jurisdiction over Respondent and the produce debt owed to the remaining five (5) sellers listed in the Complaint, and the parties have now agreed to the entry of a Consent Decision and Order as set forth herein. Respondent waives all further proceedings in this matter. 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 a corporation existing under the laws of the state of Florida. Respondent's business address is 100 State Road 29, Felda, Florida 33930.

2. At all times material herein, Respondent was licensed under the provisions of the PACA. License number 20120769 was issued to Respondent on March 20, 2012. The license is subject for renewal pursuant to section 4(a) of the PACA (7 U.S.C. § 499d(a)) on March 20, 2017.

3. During the period March 2014 through June 2015, Respondent purchased, received, and accepted, in interstate and foreign commerce, from five (5) sellers, 29 lots of

perishable agricultural commodities, and failed to make full payment promptly of the agreed purchase prices, in the total amount of $98,817.85.

Conclusions

Respondent's failure to make full payment promptly to five (5) sellers of the agreed purchase prices of the perishable agricultural commodities described in Finding of Fact 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 license shall be revoked pursuant to section 8(a) of the PACA (7 U.S.C. § 499h(a)). However, this finding and the revocation of Respondent's license shall be held in abeyance so long as Respondent pays the produce sellers listed in Appendix A to the Complaint (with the exception of the seller DiMare for the reasons stated *infra*) the balance of the full amounts owed to each seller, as listed in Appendix A to the Complaint, and referenced in Finding of Fact 3 above, within 30 days of the effective date of this Consent Decision and Order.

The PACA Division, Specialty Crops Program, of the Agricultural Marketing Service shall be the final arbiter of whether the remaining five (5) 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 is made, Respondent shall pay, within 30 days after the date of demonstration of full payment to the sellers (or sixty days after the effective date of this Decision, whichever occurs first), a civil penalty in the amount of $15,500.00. 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 to the five (5) produce sellers is made within the 30 days stated above, and Respondent pays the $15,500.00 civil penalty as described above, the finding of willful, flagrant, and repeated violations of the PACA and the revocation of Respondent's license as stated in the Order above will be permanently abated, and the case will be closed.

If full payment to the five (5) produce sellers in the amounts listed in the Appendix A to the Complaint and as described in Finding of Fact 3 above, or the subsequent payment of the $15,500.00 civil penalty is not made in the manner described above, then the finding of willful, flagrant, and repeated violations, as stated above, and the revocation of Respondent's PACA license, 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 revocation ordered above no longer be held in abeyance.

This Order shall become effective upon issuance.

Copies hereof shall be served upon parties.

I have read the foregoing document, understand its contents and consent to the terms of this Consent Decision and Order.

Felda Vegetable Farms, Inc., a Florida corporation

Date: 1/19/2017

By: [redacted]

Joel Salazar, Jr., its President

[redacted]

Christopher Young, Esq.
Attorney for Complainant

1/23/17
Date signed

[redacted]

Steven Nurenberg, Esq.
Attorney for Respondent

1/19/17
Date Signed

Done at Washington, D.C.

this 26th day of January 2017

[redacted], CALJ

Administrative Law Judge