

UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re:	)	PACA Docket No. D-05-0023
	)	
P. J. Produce, Inc., and	)	
Frank J. Falletta,	)	
	)	Decision Without Hearing by Reason of
Respondents	)	Consent as to Frank J. Falletta

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930; as amended (7 U.S.C. § 499a et seq.) (hereinafter, "PACA"), instituted by a complaint filed by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture, against P.J. Produce, Inc. and Frank J. Falletta.

The complaint alleged that P.J. Produce, Inc., during the period October 25, 2002 through October 3, 2003, under the direction, management and control of Frank J. Falletta, failed to make full payment promptly to 30 sellers of the agreed purchase prices in the total amount of \$1,146,938.48 for 283 lots of perishable agricultural commodities which P.J. Produce, Inc., purchased, received and accepted in interstate and foreign commerce, in willful, flagrant and repeated violation of section 2(4) of the PACA (7 U.S.C. § 499b(4)).

A copy of the complaint was served upon each Respondent. Complainant and Frank J. Falletta have agreed to the entry of a Decision Without Hearing by Reason of Consent as set forth herein. Therefore, this Decision Without Hearing by Reason of Consent is entered without further procedure or hearing pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (hereinafter, "Rules of Practice") (7 C.F.R. § 1.138).

### Findings of Fact

1. P. J. Produce, Inc. (hereinafter, "the corporate Respondent"), is a corporation organized and existing under the laws of the State of New York. The corporate Respondent ceased operating in September 2003. The corporate Respondent's last known business mailing address is Unit 337 Row C, Hunts Point Produce Market, Bronx, New York 10474.

2. At all times material herein, the corporate Respondent was licensed under the provisions of the PACA. License number 19991220 was issued to the corporate Respondent on June 22, 1999. This license terminated on June 22, 2004, pursuant to section 4(a) of the PACA (7 U.S.C. § 499d(a)) when the corporate Respondent failed to pay the required renewal fee.

3. Frank J. Falletta (hereinafter, "the individual Respondent"), is an individual whose business mailing address is 12 Quaker Ridge Road, Sherman, Connecticut 06784.

4. At all times material herein, the individual Respondent regularly represented himself as the corporate Respondent's Chief Operating Officer, signed numerous documents as the corporate Respondent's Chief Operating Officer, and signed checks on the account of the corporate Respondent.

### Conclusions

The individual Respondent admits the jurisdictional allegations of the complaint, neither admits nor denies the remaining allegations of the complaint, and agrees to the following order.

### Order

A finding is made that the individual Respondent, Frank J. Falletta, has committed willful, repeated and flagrant violations of section 2(4) of the Perishable Agricultural

Commodities Act (7 U.S.C. § 499b(4)), and the facts and circumstances of the violations shall be published.

This order shall take effect on the seventh day after this Decision becomes final.

Pursuant to section 1.138 of the Rules of Practice (7 C.F.R. § 1.138), this Decision will become final upon issuance.

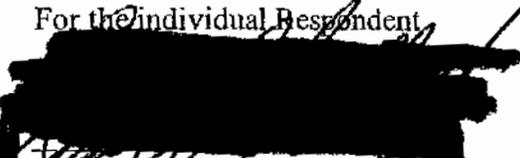
Copies hereof shall be served upon the parties.

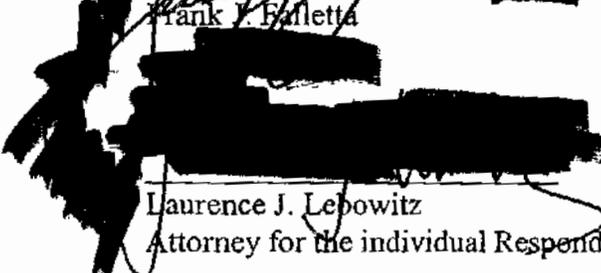
Done at Washington, D.C.

this 15<sup>th</sup> of March, 2006

  
Administrative Law Judge  
PETER M. DAVENPORT

For the individual Respondent

  
Frank J. Faletta

  
Laurence J. Lepowitz  
Attorney for the individual Respondent

For Complainant

  
Associate Deputy Administrator  
Fruit and Vegetable Programs, AMS

  
Andrew Y. Stanton  
Attorney for Complainant