

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) PACA Docket No. D-03-0028
)
G & B Produce Company, Inc.,)
) Decision Without Hearing
Respondent) by Reason of Default

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.) (hereinafter referred to as the “Act”), instituted by a complaint filed on June 24, 2003, by the Associate Deputy Administrator, Perishable Agricultural Commodities Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture.

The complaint alleges that during the period March 2002 through August 2002, G & B Produce Company, Inc., (hereinafter “Respondent”) failed to make full payment promptly to eight sellers of the agreed purchase prices, or balances thereof, in the total amount of \$209,740.75 for 55 lots of perishable agricultural commodities that it purchased, received, and accepted in interstate and foreign commerce.

A copy of the complaint was served on Respondent by regular mail on July 25, 2003. No answer to the complaint has been received. The time for filing an answer having expired, and upon motion of the Complainant for the issuance of a decision without hearing based upon Respondent’s default, the following Decision and Order shall be issued without further investigation or hearing pursuant to Section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent is a corporation organized and existing under the laws of the State of Florida. Respondent's business address is 150 S.W. 12th Avenue, Suite 430, Pompano Beach, Florida 33069.

2. At all times material herein, Respondent was licensed under the provisions of the PACA. License number 830838 was issued to Respondent on April 18, 1983. This license terminated on April 18, 2003, 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 March 2002 through August 2002, Respondent purchased, received and accepted in interstate and foreign commerce, 55 lots of perishable agricultural commodities from eight sellers, but failed to make full payment promptly of the agreed purchase prices, or balances thereof, in the total amount of \$209,740.75.

Conclusions

Respondent's failure to make full payment promptly with respect to the transactions set forth in Finding of Fact No. 3 above, constitutes willful, flagrant, and repeated violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)), for which the Order below is issued.

Order

A finding is made that Respondent has committed willful, flagrant, and repeated violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)), and the facts and circumstances of the violations set forth above shall be published.

This order shall take effect on the 11th day after this Decision becomes final.

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 hereof shall be served upon the parties.

Done at Washington, D.C.

this 3rd day of May, 2004

Marc Hillson
Administrative Law Judge

