

UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re:)	PACA Docket No. APP- 05-0003
)	
Phillip Hall,)	
)	
Petitioner)	

DECISION WITHOUT HEARING BY REASON OF CONSENT

This is a responsibly connected proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.; hereinafter "PACA").

On January 4, 2005, Bruce W. Summers, Acting Chief of the PACA Branch, determined that Phillip M. Hall was responsibly connected to Do Ripe Farms, Inc., during the period in which it violated the PACA. On February 1, 2005, Phillip M. Hall (hereinafter "Petitioner"), filed a Petition for Review of his responsibly connected status pursuant to Section 1.135 of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 et seq.; hereinafter "Rules of Practice").

Respondent alleged that Petitioner Phillip Hall was vice-president and secretary of Do Ripe Farms, Inc., during the period in which the company willfully, flagrantly, and repeatedly violated section 2(4) of the PACA. Petitioner Phillip Hall alleged that he served only as vice president of marketing for DRF, LLC, an affiliate of Do Ripe Farms, Inc.

The parties have now 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 (7 C.F.R. § 1.130 et seq.; hereinafter "Rules of Practice") applicable to this proceeding (7 C.F.R. §1.138).

Findings of Fact

1. On July 28, 2004, a PACA disciplinary complaint (D-04-0018) was served on Do Ripe Farms, Inc., alleging that during the period September 2002 through April 2003, Respondent purchased, received, and accepted, from 16 sellers in interstate commerce, 100 lots of perishable agricultural commodities, but failed to make full payment promptly of the agreed purchase prices in the total amount of \$1,040,164.80.

2. On August 10, 2005 Administrative Law Judge Marc Hillson issued a Decision Without Hearing By Reason of Default in the case D-04-0018 against Do Ripe Farms, Inc. finding that based on the facts set forth in Finding of Fact number 1, above, Do Ripe Farms, Inc. willfully, flagrantly, and repeatedly violated Section 2(4) of the PACA. Judge Hillson further ordered that the facts and circumstances of the violation committed by the company in case number D-04-0018 should be published.

3. The Parties have stipulated to a resolution of this proceeding without an admission from Petitioner of liability. The parties agree that for a period of 2 years from the date of this order, Petitioner Phillip Hall will not own, operate, seek to be employed in the produce industry by, or be affiliated with any entity subject to license under the PACA.

Order

Petitioner Phillip Hall is found to be responsibly connected to Do Ripe Farms, Inc., when the company willfully, flagrantly, and repeatedly violated the PACA by failing to make full payment promptly in the total amount of \$1,040,164.80 to 16 sellers for 100 lots of perishable


agricultural commodities purchased, received, and accepted in interstate commerce during the period September 2002 through April 2003.


However, that finding shall be held in abeyance in accordance with the terms of the Understanding Regarding the Consent Decision (hereinafter "Understanding") entered into between Respondent and Petitioner, and any supplemental understandings regarding the consent that may be entered by the parties. If the Petitioner fails to satisfy the terms of the Understanding, or any supplemental understandings entered by the parties, upon application of Respondent to the Administrative Law Judge, the finding that Phillip Hall is responsibly connected to Do Ripe Farms, Inc., will automatically take effect without further procedure. If Petitioner meets the requirements of the Understanding, or any supplemental understandings entered by the parties, the finding of responsible connection held in abeyance will abate upon motion of Respondent requesting that the Administrative Law Judge vacate the finding. Petitioner explicitly waives all further proceedings in this matter. The Administrative Law Judge will retain jurisdiction over this case pending any final motions by the parties.

This order shall become final upon issuance. Copies of this order shall be served upon the parties.


Done at Washington, D.C.

this 2nd day of December, 2005

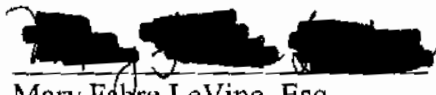

Administrative Law Judge


Christopher Young-Morales, Esq.
Attorney for Respondent

11-25-05
Date Signed


Phillip Hall
Petitioner

11-21-05
Date Signed


Mary Fabre LeVine, Esq.
Attorney for Petitioner

11/21/05
Date Signed