

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

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In re: ) PACA Docket No. D-03-0023  
 )  
 Kropf Fruit Company )  
 )  
 )  
 Respondent ) Decision Without Hearing by Reason  
 ) of Consent

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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 on May 29, 2003, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture.

The complaint alleged that Kropf Fruit Company (hereinafter "Respondent") had committed willful, flagrant and repeated violations of Section 2(4) of the PACA (7 U.S.C. § 499b(4)) by failing to make full payment promptly to three sellers in the amount of \$542,883.96 for 31 lots of perishable agricultural commodities purchased in the course of interstate or foreign commerce during the period August 2000 through January 2002. The complaint further alleged that Respondent's PACA license terminated on January 23, 2003, pursuant to Section 4(a) of the PACA (7 U.S.C. § 499d(a)). Complainant requested that the Respondent be found to have committed willful, flagrant and repeated violations of Section 2(4) of the PACA and that the facts and circumstances of the violations be published.

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 applicable to this proceeding (7 C.F.R. § 1.138).

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Findings of Fact

1. Respondent, Kropf Fruit Company, is a corporation organized and existing under the laws of the State of Michigan. Respondent's mailing address is 11980 Fisk Road, Belding, Michigan 48809.

2. At all times material herein, Respondent was licensed under the PACA. License number 970686 was issued to Respondent on January 23, 1997. This license terminated on January 23, 2003, pursuant to Section 4(a) of the PACA (7 U.S.C. § 499d(a)), when Respondent failed to pay the required renewal fee.

3. Respondent, during the period August 2000 through January 2002, committed willful, flagrant and repeated violations of Section 2(4) of the PACA by failing to make full payment promptly to three sellers for 31 lots of perishable agricultural commodities purchased in interstate or foreign commerce in the amount of \$542,883.96.

Conclusions

Respondent's actions, as set forth in Finding of Fact 3 above, constitute willful, flagrant and repeated violations of Section 2(4) of the PACA, for which the Order below is issued.

Order

Respondent is hereby found to have committed willful, flagrant and repeated violations of Section 2(4) of the PACA, and the facts and circumstances of the violations shall be published.

This Order will take effect on October 30, 2004. This Decision will become final without further proceedings upon its issuance, pursuant to Section 1.138 of the Rules of Practice (7 C.F.R. § 1.138).

Copies of this Order shall be served upon the parties.

Done at Washington, D.C.

this 31<sup>st</sup> day of November, 2004

  
  
Administrative Law Judge

For Respondent

  
Roger H. Kropf  
President

  
STEPHEN P. MCCARRON  
Attorney for Respondent

For Complainant

  
Eric M. Forman  
Associate Deputy Administrator  
Fruit and Vegetable Programs, AMS

  
Jeffrey J. Armistead  
Attorney for Complainant