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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) PACA Docket No. D-04-0001
Americas Produce Company, Inc.)
Respondent)

DECISION WITHOUT HEARING BY REASON OF CONSENT

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.; hereinafter "PACA" or "Act"), instituted by a Complaint filed on October 31, 2003 by the Associate Deputy Administrator, Perishable Agricultural Commodities Branch of Fruit and Vegetable Programs of the Agricultural Marketing Service.

The Complainant alleged that Respondent Americas Produce Company, Inc., committed willful, flagrant and repeated violations of Section 2(4) of the PACA (7 U.S.C. § 499b(4)) by: (a) failing to make full payment promptly in the total amount of \$255,834.29 to 13 sellers for 85 lots of perishable agricultural commodities which it purchased, received, and accepted in interstate and foreign commerce during the period March 2002 through September 2002; and (b) failing to remit net proceeds promptly in the total amount of \$287,831.14 to 9 growers for 82 lots of perishable agricultural commodities consigned in the course of foreign commerce. The Complaint requested that the Administrative Law Judge find that Respondent has willfully,

flagrantly and repeatedly violated Section 2(4) of the PACA (7 U.S.C. § 499b(4)) and order the facts and circumstances of those violations be published.

The parties have now agreed to the entry of a Decision Without Hearing by Reason of Consent (hereinafter “Decision”) as set forth herein. Therefore, this Decision 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. Americas Produce Company, Inc., (hereinafter “Respondent”) is a corporation organized and existing under the laws of the State of Florida. Respondent’s business address while operating was 500 NW 12th Avenue, Pompano Beach, Florida 33069. Respondent had another business office, while operating, at 675 SW 12th Avenue, Pompano Beach, Florida 33069. Respondent’s current address is c/o Peter Warren, President and Director, 444 NW 104th Avenue, Coral Springs, Florida 33071-6837.

2. At all times material herein, Respondent was licensed under or subject to the PACA. PACA license number 20001397 was issued to Respondent on July 6, 2000. That license terminated on July 6, 2003, pursuant to Section 4(a) of the PACA (7 U.S.C. § 499d(a)) when Respondent failed to pay the required annual fee.

3. During the period March 2002 through September 2002, Respondent failed to make

full payment promptly to 13 sellers of the agreed purchase prices, or balances thereof, in the total amount of \$255,834.29 for 85 lots of perishable agricultural commodities which it purchased, received, and accepted in interstate and foreign commerce.

RECEIVED AND ACCEPTED IN INTERSTATE AND FOREIGN COMMERCE:

→ On September 10, 2003, a total trust distribution payment of \$100,029.00 was

Order


Respondent is hereby found to have committed willful, flagrant and repeated violations of Section 2(4) of the PACA (7 U.S.C. § 499b(4)). The facts and circumstances of these violations shall be published pursuant to Section 8(a) of the PACA (7 U.S.C. § 499h(a)).

This Order shall take effect on January ~~18~~³⁰, 2005. 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 Decision and Order shall be served upon the parties.


Done at Washington, D.C.

this ~~20~~^{31st} day of January, 2005



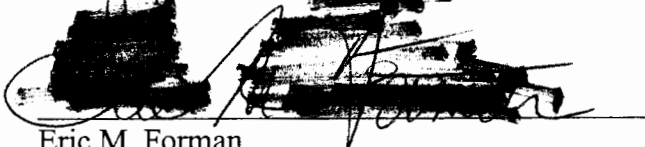
Administrative Law Judge
MARC R HILLSON

For Respondent




Peter Warren
President and Director
Americas Produce Company, Inc.

For Complainant



Eric M. Forman
Associate Deputy Administrator
Perishable Agricultural Commodities Branch
Fruit and Vegetable Programs
Agricultural Marketing Service



Mark Mandell
Attorney for Respondent



Clara Kim
Attorney for Complainant