

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	PACA Docket No. D-04-0017
	)	
Jody D. DeSomma, an individual	)	
doing business as Impact Brokerage	)	
and/or Impact Brokerage Corporation,	)	
and Impact Brokerage Corporation	)	
	)	Decision Without Hearing
Respondents	)	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”). On June 28, 2004, Complainant filed a Complaint alleging that Respondents willfully, flagrantly and repeatedly violated Section 2(4) of the PACA (7 U.S.C. § 499b(4)) by making, for a fraudulent purpose, false and misleading statements in connection with perishable agricultural commodities that the Respondents purchased, received and accepted in interstate commerce. Specifically, the Complaint alleges that Respondents made fifty alterations to the contents of nine U.S. Department of Agriculture, Agricultural Marketing Service Inspection Certificates. The Complaint requests that the Administrative Law Judge issue a finding that Respondent willfully, flagrantly and repeatedly violated Section 2(4) of the PACA (7 U.S.C. § 499b(4)) and order a suspension of Respondents’ PACA license.

The parties have now agreed to this Decision Without Hearing by Reason of Consent which is now 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 (the “Rules of Practice”) applicable to this proceeding. See 7 C.F.R. §1.138.

### Findings of Fact

1. Jody D. DeSomma, (“Respondent DeSomma”) is an individual doing business as Impact Brokerage and/or Impact Brokerage Corporation. Respondent DeSomma’s business mailing address is 144 South Hillside Avenue, Nesconset, New York 11767-1549.

2. At all times material herein, Respondent DeSomma was licensed as an individual under the PACA. License number 19981664 was issued to Respondent DeSomma on July 22, 1998. This license terminated on July 22, 2004, after Respondent DeSomma’s business, Impact Brokerage, was licensed as a corporation.

3. Impact Brokerage Corporation (“Respondent Impact Brokerage”) is a corporation organized and existing under the laws of the State of New York. Respondent Impact Brokerage’s business mailing address is 144 South Hillside Avenue, Nesconset, New York 11767-1549.

4. Complainant received a completed application for a PACA license from Respondent Impact Brokerage on May 18, 2004. Respondent DeSomma owns 100 percent of the corporation, Respondent Impact Brokerage. On June 15, 2004, Respondent Impact Brokerage was issued PACA license number 20040913 as a corporation. Respondent Impact Brokerage’s PACA license is next subject to renewal on June 15, 2006.

5. Respondents made, for a fraudulent purpose, false and misleading statements in connection with perishable agricultural commodities that Respondents purchased, received and accepted in interstate commerce. Such false and misleading statements occurred when Respondents made fifty alterations to the contents of nine U.S. Department of Agriculture, Agricultural Marketing Service Inspection Certificates.

6. Respondent DeSomma cooperated with the PACA Branch's investigation in this case and is in the process of making restitution to produce sellers and other entities who granted price adjustments to Respondent Impact Brokerage based on the nine altered U.S. Department of Agriculture, Agricultural Marketing Service Inspection Certificates.

#### Conclusion

Respondents' alteration of federal inspection certificates in connection with perishable agricultural commodities that were purchased, received and accepted in interstate commerce constitute willful, flagrant and repeated violations of Section 2(4) of the PACA (7 U.S.C. § 499b(4)).

#### Order

Respondents DeSomma and Impact Brokerage are hereby ordered to pay a civil penalty of twenty thousand dollars (\$20,000). In addition, Respondents' PACA license, now held in the name of Impact Brokerage Corporation, is hereby suspended for a period of sixty (60) days. However, that suspension shall be held in abeyance in accordance with the terms of the Understanding Regarding Consent Decision (hereinafter "Understanding") entered into between Complainant and Respondents. If Respondents fail to satisfy the terms of the parties' Understanding, the suspension of Respondent Impact Brokerage's PACA license will automatically take effect upon application by Complainant to the Administrative Law Judge. Respondents DeSomma and Impact Brokerage expressly waive any further appearance or procedure in this case.

This Order shall become final upon issuance.


Copies of this Order shall be served upon the parties.

Done at Washington, D.C.

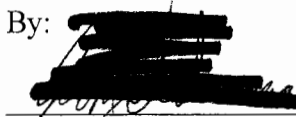

this 28th day of September, 2005

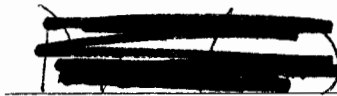
   
ADMINISTRATIVE LAW JUDGE

For Respondents,


  
Jody DeSomma  
Respondent

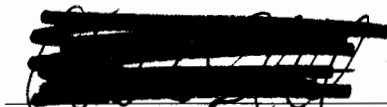
Impact Brokerage Corporation  
Respondent

By:   


  
Title

For Complainant,

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

  
Charles Spicknall, Esq.  
Attorney for Complainant