

UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re:) PACA Docket No. D-07-0094
)
Bronco Produce Corp. d/b/a)
J & J Produce)
)
Respondent) Consent Decision

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 April 11, 2007, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture (hereinafter "Complainant").

The Complaint alleges that during the period June 17, 2004, through July 23, 2005, Bronco Produce Corp. d/b/a J & J Produce (hereinafter "Respondent"), failed to make full payment promptly to 58 sellers of the agreed purchase prices, or balances thereof, in the total amount of \$1,701,252.57 for 476 lots of perishable agricultural commodities, which it purchased, received, and accepted in the course of interstate and foreign commerce.

A copy of the Complaint was served on Respondent. Respondent filed an Answer to the Complaint on June 1, 2007. In the Answer, Respondent denied the allegations in the Complaint and claimed that it attempted to pay all sellers despite suffering financial losses due to former employees creating a competing business.

Respondent and Complainant have now agreed to the entry of this Consent Decision as set forth herein. Therefore, this Consent Decision is entered without further procedure or hearing pursuant to the consent decision provision (7 C.F.R. § 1.138) of the Rules of Practice Governing

Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130-1.151; hereinafter "Rules of Practice").

Findings of Fact

1. Bronco Produce Corp. d/b/a J & J Produce (hereinafter "Respondent"), is a corporation organized and existing under the laws of the State of New York. Respondent's business and mailing address was 257 B NYC Terminal Market, Bronx, New York 10474. Respondent ceased business operations on July 25, 2005. Respondent's current mailing address through counsel is c/o Laurence J. Lebowitz, Laurence J. Lebowitz & Associates, 485 Madison Avenue – 15th Floor, New York, New York 10022.

2. At all times material herein, Respondent was licensed under the provisions of the PACA. PACA license number 19940782 was issued to Respondent on March 11, 1994. This license terminated on March 11, 2006, 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. The Secretary has jurisdiction over Respondent and the subject matter involved herein.

4. Respondent, during the period June 17, 2004, through July 23, 2005, failed to make full payment promptly to 58 sellers of the agreed purchase prices, or balances thereof, in the total amount of \$1,701,252.57 for 476 lots of perishable agricultural commodities that it purchased, received, and accepted in interstate and foreign commerce.

Conclusions

Respondent has 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 with respect to the transactions set forth in Findings of Fact No. 4 above, 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 (7 U.S.C. § 499b(4)) and the facts and circumstances of the violations shall be published pursuant to section 8(a) of the PACA (7 U.S.C. § 499h(a)).

This decision and Order shall become final and effective upon issuance pursuant to section 1.138 (7 C.F.R. § 1.138) of the Rules of Practice.

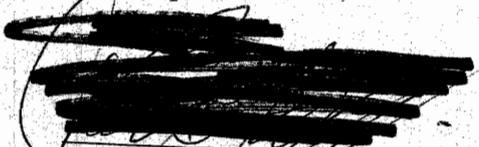
Copies of this decision and Order shall be served upon the parties.

Done at Washington, D.C.

this 12th day of September, 2007

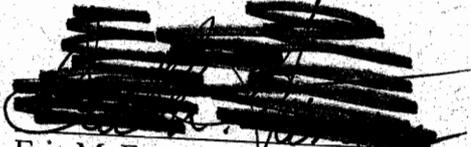

Administrative Law Judge

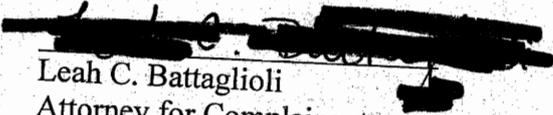
For Respondent


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For Complainant


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