

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	PACA Docket No. D-03-0029
)	
Queen City Marketing Services, Inc.,)	
)	Decision Without Hearing
Respondent)	by Reason of Default

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.; hereinafter “Act” or “PACA”), instituted by a Complaint filed on July 17, 2003, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. The Complaint alleges that during the period May 2002 through January 2003, Respondent Queen City Marketing Services, Inc., (hereinafter “Respondent”) failed to make full payment promptly to 11 sellers of the agreed purchase prices in the total amount of \$249,109.58 for 56 lots of perishable agricultural commodities which it purchased, received, and accepted in interstate commerce.

On July 18, 2003, a copy of the Complaint was mailed to Respondent via certified mail to its business mailing address. The Complaint was returned

unclaimed by the U.S. Postal Service on August 12, 2003. On August 15, 2003, a copy of the Complaint was re-sent to Respondent's business address via regular mail by the Hearing Clerk. Pursuant to Section 1.147(c) (7 C.F.R. § 1.147(c)) 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"), service is deemed made on the date of remailing by regular mail.

Respondent has not answered the Complaint. The time for filing an Answer having expired, and upon motion of the Complainant for the issuance of a Default Order, the following Decision and Order shall be issued without further investigation or hearing pursuant to Section 1.139 (7 C.F.R. § 1.139) of the Rules of Practice.

Findings of Fact

1. Respondent is a corporation organized and existing under the laws of the State of Ohio. Its business address is 700 West Pete Rose Way, Suite 344, Cincinnati, Ohio 45203. Its business mailing address is c/o Agent Richard A. Castellini, 1000 Tri-State Building, 432 Walnut Street, Cincinnati, Ohio 45202.

2. At all times material herein, Respondent was licensed or operating subject to license under the provisions of the PACA. PACA license number 19990008 was issued to Respondent on October 1, 1998. That license terminated on October 1, 2002, 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 May 2002 through January 2003, Respondent purchased, received and accepted in interstate commerce, from 11 sellers, 56 lots of fruits and vegetables, all being perishable agricultural commodities, but failed to make full payment promptly of the agreed purchase prices, in the total amount of \$249,109.58.

Conclusions

Respondent's failure to make full payment promptly with respect to the 56 transactions set forth in Finding of Fact No. 3 above, constitutes willful, flagrant and repeated violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)), for which the Order below is issued.

Order

A finding is made that Respondent has committed willful, flagrant and repeated violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)), and the facts and circumstances of the violations shall be published.

This order shall take effect on the 11th day after this Decision becomes final.

Pursuant to the Rules of Practice, this Decision will become final without further proceedings 35 days after service hereof unless appealed to the Secretary by

a party to the proceeding within 30 days after service as provided in Sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139 and 1.145).

Copies hereof shall be served upon parties.

Done at Washington, D.C.

this 27th day of August, 2004

**/s/ Marc R. Hillson
Chief Administrative Law Judge**