

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 13-0221

In re: A & A Ontario Market, Inc.,

Respondent

Default Decision and Order

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.)(the Act or PACA), instituted by a Complaint filed on April 19, 2013, by the Associate Deputy Administrator, Fruit and Vegetable Program, Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA).

The Complaint filed by Complainant alleges that Respondent, during the period December 2010 through March 2012, failed to make full payment promptly to eleven (11) sellers of the agreed purchase prices in the total amount of \$232,581.55 for 370 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in interstate and foreign commerce. The Complaint alleges that Respondent willfully violated section 2(4) of the PACA (7 U.S.C. § 499b(4)), that the failure of Respondent to make full payment promptly, as more fully described in section 46.2(aa) of the Regulations (7 C.F.R. § 46.2 (aa)), of the agreed purchase prices for perishable agricultural commodities that it purchased, received and accepted in interstate and foreign commerce, constitutes willful, flagrant and repeated violations of section 2(4) of the PACA (7 U.S.C. § 499b(4)), and requests that pursuant to section 8(a) of the PACA (7 U.S.C. § 499h(a)), 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 that Respondent's PACA license be revoked.

The Complaint was sent to Respondent by the Hearing Clerk certified mail and was received on May 23, 2013. Therefore, service was effected on that date pursuant to section 1.147 (c)(1) of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted By The Secretary (7 C.F.R. § 1.130 *et seq.*)(Rules of Practice), and Respondent's answer was due on June 12, 2013. Respondent was duly served with the Complaint, but failed to file an answer to the Complaint within the 20 day time period prescribed by section 1.136 of the Rules of Practice (7 C.F.R. § 1.136). Since Respondent failed to answer the Complaint, the following Findings of Fact, Conclusions of Law and Order will be entered pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings Of Fact

1. Respondent is or was a corporation organized and existing under the laws of the state of California with a mailing address in Pasadena, California. Respondent is not currently operating and the Complaint was served on the company's last known mailing address and on its president and director.
2. At all times material herein, Respondent was licensed under the provisions of the PACA. License number 20050859 was issued to Respondent on June 2, 2005.
3. Respondent, during the period December 2010 through March 2012, failed to make full payment promptly of the agreed purchase prices, or balances thereof, for 370 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in the course of interstate and foreign commerce from eleven (11) sellers, in the total amount of \$232,581.55.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.

2. Respondent willfully, flagrantly and repeatedly violated section 2(4) of the PACA (7 U.S.C. § 499b(4)).

Order

1. The facts and circumstances of Respondent's violations are ordered published.
2. Respondent's PACA license shall be revoked.
3. This order shall take effect on the day that this Decision becomes final.
4. Pursuant to the Rules of Practice governing procedures under the Act, 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.

October 28, 2013

Peter M. Davenport

Peter M. Davenport
Chief Administrative Law Judge