



UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) PACA Docket No. D-14-0028  
)  
El Metate Foods, Inc., )  
d/b/a El Metate Market, )  
) Decision Without Hearing  
Respondent ) by Reason of Consent

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agriculture Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*)(PACA), instituted by a Complaint filed on November 7, 2013, by the Associate Deputy Administrator, Fruit and Vegetable Program, Agricultural Marketing Service, United States Department of Agriculture. The Complaint alleged that during the period March 11, 2011, through February 1, 2012, Respondent El Metate Foods, Inc. (Respondent) failed to make full payment promptly of the agreed purchase price for 818 lots of perishable agricultural commodities, which it purchased, received, and accepted in interstate commerce from six (6) sellers, in the total amount of \$307,678.36.

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 the violations published.

Respondent and Complainant have now agreed to the entry of a Decision Without Hearing by Reason of Consent as to the allegations as set forth in the Complaint. Respondent admits the jurisdictional allegations in paragraph II of the Complaint and specifically admits that the Secretary has jurisdiction in this matter, and neither admits or denies the remaining allegations of the Complaint. Respondent waives oral hearing and further procedure, and

consents to the entry of the following order. Therefore, this Decision Without Hearing by Reason of Consent 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.*) (Rules of Practice).

#### Findings of Fact

1. El Metate Foods, Inc., d/b/a El Metate Market (Respondent), is a corporation existing under the laws of the state of California. Respondent's business and mailing address is 838 East 1<sup>st</sup> Street, Santa Ana, California, 92701.

2. At all times material herein, Respondent was licensed under the provisions of the PACA. License No. 2009 0963 was issued to Respondent on June 24, 2009. This license terminated on June 24, 2012, 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. During the period March 11, 2011, through February 1, 2012, on or about the dates set forth in the Complaint, Respondent failed to make full payment promptly to six (6) sellers of the agreed purchase prices, or balances thereof, in the total amount of \$307,678.36 for 818 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in the course of interstate commerce and foreign commerce.

#### Conclusions

The failure to make full payment promptly to six (6) sellers of the agreed purchase prices, or balances thereof, in the total amount of \$307,678.36 for 818 lots of perishable agricultural commodities, purchased, received, and accepted in the course of interstate commerce and foreign

commerce constitute willful, flagrant and repeated violations of section 2(4) of the Act (7 U.S.C. 499b).

Order

Respondent has committed willful, flagrant and repeated violations of section 2(4) of the Act (7 U.S.C. 499b) and the facts and circumstances of the violations shall be published.

This Order shall become final upon issuance.

Copies of this Order shall be served upon the parties.

For Respondent



/ Rudy Murrieta  
for El Metate Foods, Inc.

For Complainant



Bruce W. Summers  
Associate Deputy Administrator  
Fruit and Vegetable Program  
Agricultural Marketing Service



/ Richard L. Barnett, Esq.  
Attorney for Respondent



Charles L. Kendall, Esq.  
Attorney for Complainant

Done at Washington, D.C.

this 23 of June, 2014



Administrative Law Judge

