

In re: PRODUCE MANAGEMENT SERVICE.

PACA Docket No. D-00-0011.

Decision and Order filed October 20, 2000.

PACA - Default - Full payment, failure to make, when due - Flagrant violation.

Andrew Y. Stanton, for Complainant.

Respondent, Pro se.

Decision and Order issued by Dorothea A. Baker, Administrative Law Judge.

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. ' 499a *et seq.*) (PACA), instituted by a complaint filed on March 20, 2000, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture.

The complaint alleged that Respondent willfully, flagrantly and repeatedly violated section 2(4) of the PACA (7 U.S.C. ' 499b(4)) during the period February 1998 through March 1999, by failing to make full payment promptly to 19 sellers of the agreed purchase prices in the total amount of \$312,900.90 for 1,080 lots of perishable agricultural commodities which it purchased, received and accepted in interstate and foreign commerce. The complaint requested that the Administrative Law Judge issue a finding that Respondent willfully, flagrantly and repeatedly violated section 2(4) of the PACA and order Respondent' s license revoked.

A copy of the complaint was served upon Respondent, which complaint has not been answered. The time for filing an answer having run, and upon the motion of Complainant for the issuance of a Decision Without Hearing by Reason of Default, the following Decision and Order is issued without further investigation or hearing pursuant to section 1.139 of the Rules of Practice (7 C.F.R. ' 1.139).

Findings of Fact

1. Produce Management Service (hereinafter, "Respondent"), is a corporation organized and existing under the laws of the State of California. Its business mailing address is 1630 Florance Street, Los Angeles, California 90023.

2. At all times material herein, Respondent was licensed under the PACA. License number 960003 was issued to Respondent on October 2, 1995. This license has been renewed annually and is next subject to renewal on October 2, 2000.

3. As more fully set forth in paragraph III of the complaint, Respondent, during the period

February 1998 through March 1999, failed to make full payment promptly to 19 sellers of the agreed purchase prices in the total amount of \$312,900.90 for 1,080 lots of perishable agricultural commodities which it purchased, received and accepted in interstate and foreign commerce.

Conclusions

Respondent's actions, as set forth in Finding of Fact 3 above, constitute willful, flagrant and repeated violations of section 2(4) of the PACA, for which the Order below is issued.

Order

Respondent's PACA license is hereby revoked.

This Order shall be published.

This Order shall take effect on the eleventh day after this Decision becomes final.

Pursuant to the Rules of Practice governing procedures under the Act, this Decision Without Hearing by Reason of Default will become final without further proceedings thirty-five days after service hereof, unless appealed to the Secretary by a party to the proceeding within thirty 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 the parties.

[This Decision and Order became effective April 10, 2001.-Editor]
