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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:)	PACA Docket No. D-06-0016
)	
Watermelon & Produce, Inc.,)	
)	
Respondent)	Decision Without Hearing by Reason
)	of Consent

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.; hereinafter referred to as the "Act"), instituted by a Complaint filed on July 13, 2006, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture.

The Complaint alleges that during the period of November 23, 2003 through October 4, 2004, Respondent Watermelon & Produce, Inc. (hereinafter "Respondent"), committed willful, flagrant, and repeated violations of section 2(4) of the Act by failing to make full payment promptly to eight sellers of the agreed purchase prices in the total amount of \$423,662.06 in connection with fifty-eight shipments of perishable agricultural commodities, which it purchased, received and accepted in interstate and foreign commerce. A copy of the Complaint was served upon Respondent. The Respondent filed an Answer admitting it owes \$384,368.00 to the eight produce sellers listed in the Complaint. Respondent admits all other material allegations of the Complaint. The Respondent and Complainant have now agreed to the entry of a Decision Without a Hearing by Reason of Consent as set forth herein. Therefore, pursuant to

Section 1.138 of the Rules of Practices (7 C.F.R § 1.138), the following Decision and Order is issued without further procedure or hearing.

Findings of Fact

1. Respondent is a corporation organized and existing under the laws of the State of New York. Its business address was 18-31 130th Street, College Point, New York 11356.

2. At all times material to the Complaint, Respondent was licensed under the provisions of the PACA. License number 2003-1003 was issued to Respondent on May 9, 2003. The license terminated on May 9, 2005, pursuant to section 4(a) of the PACA (7 U.S.C. § 499d(a)) when Respondent failed to pay the required annual fee.

3. The Secretary has jurisdiction over Respondent and the subject matter involved herein.

4. During the period November 23, 2003 through October 4, 2004, Respondent failed to make full payment promptly to eight sellers of the agreed purchase prices in the total amount of \$384,368.00 for shipments of perishable agricultural commodities 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), by failing to make full payment promptly with respect to the transactions set forth in Finding of Fact No. 4 above, for which the Order below is issued.

Order

The Respondent is found to have committed willful, flagrant, and repeated violations of Section 2 of the Act (7 U.S.C. § 499b). The facts and circumstances of these violations shall be published pursuant to section 8(a) of the Act (7 U.S.C. § 499h(a)).

This order shall become effective upon its issuance. Copies hereof shall be served upon the parties.

Done at Washington, D.C.

this ²24th of October, 2006



Administrative Law Judge
PETER M. DAVENPORT

For Respondent



for Watermelon & Produce, Inc.
By Kwang Mi Jung -pres.



E. Peter Shin
Attorney for Respondent

For Complainant



Associate Deputy Administrator
Fruit and Vegetable Programs
Agricultural Marketing Service



Gary F. Ball
Attorney for Complainant