

**In re: PREFERRED PRODUCE COMPANY.
PACA Docket No. D-00-0015.
Decision and Order filed August 31, 2000.**

Mary Kyle Hobbie, for Complainant.
Respondent, Pro se.
Decision and Order issued by James W. Hunt, Administrative Law Judge.

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 May 11, 2000, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. It is alleged in the complaint that during the period November 1997, through September 1998, Respondent failed to make full payment promptly to 6 sellers in the total amount of \$269,476.00 for 26 lots of perishable agricultural commodities it purchased, received and accepted in interstate commerce.

A copy of the complaint was mailed to the Respondent by certified mail on May 12, 2000. This complaint has not been answered. The time for filing an Answer having run, 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 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent, Preferred Produce Company, is a corporation organized and existing under the laws of the State of Virginia. Its business address is 2558 Paterson Avenue, Roanoke, Virginia 24016. Its mailing address was Post Office Box 3041, Roanoke, Virginia 24015.

2. At all times material herein, Respondent was licensed under the provisions or operating subject to the provisions of the PACA. PACA license number 930351 was issued to Respondent on December 10, 1992. The license terminated on December 10, 1998, when Respondent failed to pay the required annual renewal fee pursuant to Section 4(a) of the PACA (7 U.S.C. § 499d(a)).

3. As more fully set forth in paragraph 3 of the complaint, during the period of November 1997, through September 1998, Respondent purchased, received, and accepted in interstate commerce from 6 sellers, 26 lots of perishable agricultural commodities, but failed to make full payment promptly of the agreed purchase prices or balance thereof in the total amount of \$269,476.00.

Conclusions

Respondent's failure to make full payment promptly with respect to the transactions set forth in Finding of Fact No. 3, above, constitutes willful, repeated and flagrant 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, repeated and flagrant violations of Section 2(4) of the Perishable Agricultural Commodities Act (7 U.S.C. § 499b(4)), and the facts and circumstances set forth above 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 will become final without further proceedings thirty-five days after service hereof, unless appealed to the Secretary by a party to the proceedings 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 final October 27, 2000.-Editor]
