

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 11-0386

In re: Suncoast Distribution, Inc.,

Respondent

Default Decision and Order

Preliminary Statement

This proceeding was instituted under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*) (PACA), by a Complaint filed on September 8, 2011 by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. The Complaint alleges that during the period May of 2008 through September of 2009, Respondent purchased, received, and accepted, in interstate and foreign commerce 53 lots of perishable agricultural commodities from 7 sellers, but failed to make full payment promptly of the agreed purchase prices in the total amount of \$307,080.94.

A copy of the Complaint, a cover letter and a copy of the Rules of Practice governing the proceeding was served upon Respondent by the Hearing Clerk by certified mail on September 15, 2011.¹ The cover letter stated that Respondents had 20 days from the receipt of the Complaint and Notice of Hearing in which to file an answer and that failure to file an answer would constitute an admission of the material allegations in the Complaint and a waiver of Respondent's right to an oral hearing.

¹ Copies of the Complaint, cover letter and the Rules of Practice were also sent via certified mail to Phil R. Tirado, the corporation's principal and sole stockholder; however that mailing was returned by the United States Postal Service as "refused." The mailing was then resent by regular mail on November 1, 2011.

Respondent failed to file an Answer to the Complaint. The time for filing an Answer having run, upon Complainant's motion, 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. Suncoast Distribution, Inc. is a corporation organized and existing under the laws of the State of Florida.
2. At all times material to the Complaint filed herein, Respondent was licensed under the PACA.
3. License Number 2003-1277 was issued to Respondent on July 17, 2003. The license was suspended on March 12, 2010 for Respondent's failure to pay a reparation award pursuant to section 7(d) of the PACA, 7 U.S.C. § 499g(d) and was terminated on September 3, 2010 pursuant to section 4(a) of the PACA, 7 U.S.C. § 499a(a) when Respondent failed to pay the annual renewal fee.
4. Respondent, in the transactions and dates set forth in the Complaint and incorporated herein, during the period May of 2008 through September of 2009, purchased, received, and accepted, in interstate and foreign commerce 53 lots of perishable agricultural commodities from 7 sellers, but failed to make full payment promptly of the agreed purchase prices in the total amount of \$307,080.94.

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. A Finding is made that Respondent has committed willful, flagrant, and repeated violations of section 2(4) of the PACA, 7 U.S.C. § 499b(4), and the facts and circumstances of the violations shall be published.

2. This Decision and Order shall become final and effective without further proceedings thirty-five (35) days after service on Respondent, unless appealed to the Judicial Officer by a party to the proceeding within thirty (30) days after service as provided in sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139, 1.145).

Copies of this Decision and Order shall be served upon the parties.

January 31, 2012

Peter M. Davenport
Chief Administrative Law Judge