

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0111

In re: Sandler Bros.,

Respondent

Default Decision and Order

Preliminary Statement

This is a disciplinary proceeding brought under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*) (PACA) and the Regulations promulgated pursuant to the PACA (7 C.F.R. §§ 46.1 through 46.45) instituted by a Complaint filed on December 16, 2011, by Charles W. Parrott, the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA).

The Complaint filed by Complainant alleges that Respondent, during the period June 18, 2008 through March 4, 2009, failed to make full payment promptly to 8 sellers of the agreed purchase prices in the total amount of \$234,385.14 for 314 lots of perishable agricultural commodities which Respondent purchased, received and accepted in the course of or in contemplation of interstate commerce.

Respondent filed an Answer to the Complaint on March 7, 2012; however, that Answer admits the material allegations in the Complaint, including the number of sellers and lots, the dollar amount of the unpaid purchases and violation of the Act. Complainant accordingly moved

for a decision without hearing based on admissions pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139). As the Answer admits the allegations of the Complaint, no hearing is warranted in this matter and the Following Findings of Fact, Conclusions of Law and Order can be entered without further proceedings.

Findings of Fact

1. Sandler Bros., (Respondent) is a corporation organized and registered in the State of Maine with a mailing address in Biddeford, Maine. Respondent ceased business operations in June of 2009.
2. At all times material herein, Respondent was licensed or operating subject to license under the provisions of the PACA. License number 19741254 was issued to Respondent on February 20, 1974. This license was suspended on March 27, 2009 pursuant to section 7(d) of the PACA (7 U.S.C. § 499g(d)) for failure to pay a reparation award and subsequently the license was terminated on April 3, 2009 pursuant to section 4(a) of the PACA (7 U.S.C. § 499d(a)) when Respondent failed to pay the required annual fee.
3. During the period June 18, 2008, through March 4, 2009, on or about the dates set forth in Appendix A to the Complaint incorporated herein by reference, Respondent failed to make full payment promptly to eight sellers of the agreed purchase prices, or balances thereof, in the total amount of \$234,385.14 for 314 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in the course of interstate commerce.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. Respondent willfully violated section 2(4) of the PACA (7 U.S.C. § 499b(4)). The failure of Respondent to make full payment promptly of the agreed purchase prices for the

perishable agricultural commodities that it purchased, received, and accepted in interstate commerce constitutes willful, flagrant, and repeated violations of section 2(4) of the PACA (7 U.S.C. § 499b(4)) as described in section 46.2(aa) of the Regulations (7 C.F.R. § 46.2(aa)).

Order

1. The facts and circumstances of the violations found herein shall be published.
2. This order shall take effect on the day that this Decision becomes final.
3. Pursuant to the Rules of Practice governing procedures under the Act, this Decision will become final without further proceedings 35 days after service hereof unless appealed to the Secretary by a party to the proceeding within 30 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 of this Decision and Order shall be served on the parties by the Hearing Clerk.

August 15, 2012

Peter M. Davenport
Chief Administrative Law Judge