

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0261

In re: RAR Enterprises Inc.,

Respondent

Default Decision and Order

Preliminary Statement

This is a disciplinary proceeding brought pursuant to the provisions of the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*) (PACA), the Regulations promulgated pursuant to the PACA (7 C.F.R. §§ 46.1 through 46.45), and the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted By the Secretary (7 C.F.R. §§ 1.130 through 1.151). Complainant, Fruit and Vegetable Programs, Agricultural Marketing Service, initiated this proceeding against RAR Enterprises, Inc. (Respondent) by the filing of a disciplinary Complaint on March 1, 2012, alleging that Respondent willfully violated section 2(4) of the PACA (7 U.S.C. § 499b(4)) by failing to make full payment promptly to 31 sellers of produce it purchased, received and accepted, and seeking that the facts and circumstances of the violations be published.

The Complaint was served on Raul Ramirez, the president, treasurer, director and 50% shareholder of Respondent on April 5, 2012. Under section 1.136 of the Rules of Practice (7 C.F.R. § 1.136), Respondent was required to file an answer within 20 days of service, or by April 25, 2012.

Respondent failed to answer the Complaint. 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 Findings of Fact, Conclusions of Law and Order will be entered pursuant to section 1.139 (7 C.F.R. § 1.139) of the Rules of Practice.

Findings of Fact

1. Respondent R A R Enterprises, Inc., d/b/a Ramirez Bros. was a corporation incorporated and existing under the laws of California. Respondent ceased business operations and service was made on Raul Ramirez, the president, treasurer, director and 50% shareholder of Respondent.

2. At all times material herein, Respondent was licensed under the provisions of the PACA. License No. 1998 0755 was issued to Respondent on March 4, 1998. The license was suspended on February 19, 2010, for failure to pay a reparation award pursuant to section 7(d) of the PACA (7 U.S.C. § 499g(d)) and was terminated on March 4, 2011, pursuant to section 4(a) of the PACA (7 U.S.C. § 499d(a)), when Respondent failed to pay the required annual renewal fee.

3. Respondent, during the period November 20, 2008, through February 19, 2010, on or about the dates and in the transactions set forth in Appendix A to the Complaint and incorporated herein by reference, failed to make full payment promptly to 31 sellers of the agreed purchase prices, or the balance thereof, in the total amount of \$803,926.45 for 416 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in the course of or in contemplation of interstate and foreign commerce.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.

2. Respondent willfully, flagrantly and repeatedly violated section 2(4) of the Act (7 U.S.C. § 499b(4)), by failing to make full payment promptly with respect to the 31 transactions.

Order

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

2. Pursuant to the Rules of Practice governing procedures under the Act, this Decision will become final without further proceeding 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 shall be served upon the parties.

August 15, 2012

Peter M. Davenport
Chief Administrative Law Judge