

**UNITED STATES DEPARTMENT OF AGRICULTURE**  
**BEFORE THE SECRETARY OF AGRICULTURE**

Docket No. 12-0470

In re:

CASA de CAMPO, INC.,

and

HAVANA PRODUCE, INC.,

Respondents.

**DECISION WITHOUT HEARING BY ENTRY  
OF DEFAULT AGAINST RESPONDENTS**

Preliminary Statement

The instant matter involves a disciplinary proceeding instituted by a complaint filed by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service (“AMS”), of the United States Department of Agriculture (“USDA”; “Complainant”). The complaint alleged that Casa de Campo, Inc. (“Respondent Casa”) and Havana Produce, Inc. (“Respondent Havana”) violated provisions of the Perishable Agricultural Commodities Act of 1930 as amended, 7 U.S.C. § 499 a et seq. (“the Act; PACA”).

Procedural History

On June 13, 2012, Complainant USDA filed a Complaint against Respondent Casa, alleging that during the period from May 2006 through December 2011, Respondent Casa had failed to make full payment promptly to twenty (20) sellers of the agreed purchase price for 109 lots of perishable agricultural commodities received by Respondent, valued at \$373,989.88. Complainant further alleged that Respondent Havana was not fit to be licensed under PACA. The Hearing Clerk, Office of Administrative Law Judges (“OALJ”; “Hearing Clerk”) served the

complaint on Respondents by certified mail on June 14, 2012. Respondents did not file an Answer within the time allowed the Rules of Practice applicable to Adjudications before the Secretary of USDA (“the Rules”). 7 C.F.R. § 1.136. On July 5, 2012, the Hearing Clerk sent correspondence to Respondents, notifying them of their failure.

On July 15, 2012, I issued an Order to show cause why a judgment in favor of Complainant on default by Respondents should not be entered. Respondents failed to file a response to my Order. On August 16, 2012, Complainant filed a response to my Order, together with a proposed Decision and Order for entry of judgment upon default. The Hearing Clerk served Complainant’s proposed Decision and Order upon Respondents on August 17, 2012. Respondents did not file an opposition to Complainant’s proposed Decision and Order. None of the correspondence served on Respondents was returned as undeliverable.

#### Discussion

Respondents have failed to timely file an Answer or otherwise respond to Complainant’s pleadings in this matter within the time set forth by 7 C.F.R. § 1.136. Accordingly, pursuant to 7 C.F.R. § 1.136 (c), entry of Default is appropriate.

#### Findings of Fact

1. Casa De Campo, Inc. is a New Jersey corporation whose business and mailing address is 4 Dundee Avenue, Paterson, New Jersey.
2. License number 20020117 was issued to Respondent Casa on November 2, 2001 pursuant to the licensing provisions of the Act.
3. The license was renewed annually until it was suspended on October 26, 2010, pursuant to section 7(d) of the Act (7 U.S.C. §499(d)) when Respondent Casa failed to pay a reparation award under the Act.

4. Pedro Perez was listed in PACA license records as Respondent Casa's Treasurer, and was listed in other documents as the company's President and Chairman of the Board of Directors.
5. Havana Produce, Inc. is a corporation organized and existing under the laws of the State of New Jersey, whose business address is 4 Dundee Avenue, Paterson, New Jersey 07034-2105.
6. Respondent Havana's mailing address is that of the company's registered agent, Peter Perez in Saddle River, New Jersey 07458.
7. Respondent Havana was incorporated in the State of New Jersey on March 23, 2012.
8. Respondent Havana is not currently licensed under the PACA, but is subject to the licensing requirements of the Act.
9. During the period beginning in May 2006 through December 2011, Respondent Casa failed to make full payment promptly to twenty (20) sellers of the agreed purchase prices in the total amount of \$373,989.88 for 109 lots of perishable agricultural commodities, which Respondent purchased, received and accepted in interstate and foreign commerce.
10. On May 15, 2012, Complainant received Havana's application for a PACA license which included Deed of Assignment for the Benefit of Creditors relating to Respondent Casa and a Management Agreement between the two Respondents ("the Agreement") which noted that Respondent Casa had an "open balance to total vendors" of \$768,578.69.
11. The Agreement also stated that as of the date of execution on April 5, 2012, Respondent Havana would manage the business operations of Respondent Casa and would employ Pedro Perez.

12. As of October 26, 2010, after Respondent Casa failed to pay a reparation award, Pedro Perez was found to be responsibly connected to Respondent Casa pursuant to Section 8(b) of the Act.
13. Pursuant to the operation of the Act, Pedro Perez's employment is restricted.
14. Respondent Havana is a continuation of the operations of Respondent Casa, which engaged in practices prohibited by the PACA and which failed to pay a reparation award, leading to the suspension of Respondent Casa's PACA license.

#### Conclusions of Law

1. Section 8(b) of the Act provides that no licensee may employ a person that has been the individual owner, partner, or officer of a person whose PACA license is under suspension or has been revoked. 7 U.S.C. §499h(b).
2. As of the date of the filing of this complaint, Pedro Perez has been under employment restrictions pursuant to section 8(b) of the Act.
3. During the period from May 24, 2006 through December 13, 2011 Respondent Casa committed willful, flagrant and repeated violations of section 2(4) of PACA (7 U.S.C. § 499b(4) by failing to make full payment promptly to twenty (20) sellers of the agreed purchase prices in the total amount of \$373,989.88 for 109 lots of perishable agricultural commodities, which Respondent purchased, received and accepted in interstate and foreign commerce.
4. As of June 7, 2012, all of the transactions listed in Appendix A to Complainant's complaint, and incorporated herein by reference, remained unpaid.
5. The Agreement between Respondents represents the intention of Respondent Havana to continue the operations of Respondent Casa, an entity which operated under a suspended

PACA license for failure to pay a reparation award and that has failed to pay produce creditors.

6. The Agreement also constitutes a violation of the Act by expressly offering employment to Pedro Perez, who is currently restricted from such employment pursuant to section 8(b) of PACA. (7 U.S.C. § 499h(b)).
7. Respondent Havana is unfit to engage in the business of a commission merchant, dealer, or broker and is unfit to be licensed under the PACA, and its application for license was properly denied.

#### ORDER

The facts underlying Respondent Casa's willful, flagrant and repeated violations of section 2(4) of PACA (7 U.S.C. § 499b(4)) by failing to make full payment promptly to twenty (20) sellers of the agreed purchase prices in the total amount of \$373,989.88 for 109 lots of perishable agricultural commodities, which Respondent Casa purchased, received and accepted in interstate and foreign commerce shall be published.

Respondent Havana is unfit to engage in the business of a commission merchant, dealer, or broker and is unfit to be licensed under the PACA, and its application for license was properly denied.

Pursuant to the Rules of Practice, this Decision and Order shall become final and effective without further proceedings 35 days after the date of service upon Respondents, unless it is appealed to the Judicial Officer by a party to the proceeding within thirty (30) days after service, pursuant to the Rules, 7 C.F.R. §§1.139 and 1.145.

Copies of this Decision and Order together with Appendix A shall be served upon the parties by the Hearing Clerk.

So ORDERED this 17<sup>th</sup> day of September, 2012 at Washington, D.C.

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Janice K. Bullard  
Administrative Law Judge