

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 13-0173

In re: Cardile Brothers
Mushroom Packaging, Inc.,

Respondent

Default Decision and Order

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agriculture Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*)(PACA), instituted by a Complaint filed on January 30, 2013, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. The Complaint alleged that during the period September 26, 2010, through January 23, 2012, Cardile Brothers Mushroom Packaging, Inc., (Respondent) failed to make full payment promptly of the agreed purchase price for 1,806 lots of perishable agricultural commodities, which it purchased, received, and accepted in interstate and foreign commerce from 126 sellers, in the total amount of \$2,988,273.98.

A copy of the Complaint was mailed to the address of Respondent's attorney by certified mail, and was delivered on February 4, 2013. Respondent failed to answer the Complaint. The time for filing an Answer expired, and Complainant has moved for the issuance of a Default Order.

Accordingly, the following Findings of Fact, Conclusions of Law and Order will be entered pursuant to section 1.139 of the Rules of Practice Governing Formal Adjudicatory

Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 *et seq.*) (Rules of Practice).

Findings of Fact

1. Cardile Brothers Mushroom Packaging, Inc., (Respondent) is a corporation organized and existing under the laws of the state of Pennsylvania with a former business address in Avondale, Pennsylvania. Respondent is not currently operating.
2. At all times material herein, Respondent was licensed under the provisions of the PACA. License No. 2001 0771 was issued to Respondent on April 3, 2001. The license terminated on April 3, 2012, after Respondent failed to submit the required annual fee, pursuant to Section 4(a) of the PACA (7 U.S.C. §499g(d)).
3. During the period September 26, 2010, through January 23, 2012, on or about the dates and in the transactions set forth in Appendix A to the Complaint and incorporated therein by reference, Respondent failed to make full payment promptly to 126 sellers of the agreed purchase prices, or balances thereof, for lots of perishable agricultural commodities which Respondent purchased, received, and accepted in the course of interstate commerce, in the total amount of \$2,988,273.98.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. Respondent willfully, repeatedly and flagrantly violated section 2(4) of the PACA (7 U.S.C. § 499b(4)).

Order

1. The facts and circumstances of the violations shall be published.
2. This Order shall take effect on the 11th day after this Decision becomes final.
3. Pursuant to the Rules of Practice, 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 hereof shall be served upon the parties.

April 24, 2013

Peter M. Davenport

Peter M. Davenport
Chief Administrative Law Judge