

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) PACA Docket No. D-12-0001
)
Drobnick Distributing, Inc.,)
)
Respondent)

AND

In re:) PACA-APP Docket No.12-0490
)
Deborah D. Drobnick,)
)
Petitioner)

Consent Decision and Order

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*) (PACA). The Complaint filed herein, on October 3, 2011, alleged that Respondent had committed willful, flagrant and repeated violations of section 2(4) of the PACA by failing to make full payment promptly to one (1) seller of the agreed purchase prices in the total amount of \$1,466,029.37 for 55 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in the course of interstate and foreign commerce, during the period of October 22, 2009, through January 7, 2010. The Complaint sought the issuance of an order finding that Respondent had committed willful, flagrant and repeated violations of section 2(4) of the PACA, and revocation of Respondent's license.

The Complaint was served upon Respondent, Respondent agrees that the Secretary has jurisdiction in this matter, and the parties have now agreed to the entry of a Consent Decision and Order as set forth herein. In its Answer to the Complaint, Respondent has denied that during the period of October 22, 2009 through January 7, 2010, Respondent purchased, received, and

accepted, in interstate and foreign commerce, from one (1) seller, William Consalo & Sons, Vineland, NJ (the "Seller"), 55 lots of perishable agricultural commodities, and failed to make full payment promptly of the agreed purchase prices, in the total amount of \$1,466,029.37.

Respondent has also denied that it owed the Seller any money. Respondent agrees, solely for the purposes of settling this proceeding, to the following Consent Decision and Order. Respondent waives all further proceeding in this matter. Therefore, this Consent Decision and Order is entered without further procedure or hearing pursuant to the consent decision provisions 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) applicable to this proceeding (7 C.F.R. § 1.138).

The following findings and conclusions are made without any determination as to whether or not the responsibly connected parties to the Respondent, Edward P. Drobnick and Deborah D. Drobnick, knowingly, intentionally, or recklessly committed any wrongful acts or defalcations of their obligations under the PACA.

Findings of Fact

1. Drobnick Distributing Inc., (Respondent) is or was a corporation registered in the State of California. Respondent's business address is 1263 Padre Dr., Salinas, California 93901 and mailing address is 820 Park Row # 614, Salinas, California 93901.

2. At all times material herein, Respondent was licensed or operating subject to license under the provisions of the PACA. License number 20010691 was issued to Respondent on March 2, 2001. Respondent's license was up for renewal on March 2, 2014. The license has not been renewed.

Conclusions

Respondent's failure to make full payment promptly to one (1) seller of the agreed purchase prices in the total amount of \$1,466,029.37 for 55 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in the course of interstate and foreign commerce, during the period of October 22, 2009, through January 7, 2010 constitutes flagrant and repeated violations of section 2(4) of the PACA (7 U.S.C. § 499b(4)).

Order

A finding is issued that Respondent has engaged in flagrant and repeated violations of the PACA. Accordingly, Respondent's license shall be revoked and the facts and circumstances of the violations shall be published.

This Order shall become final and effective upon issuance.

Copies hereof shall be served upon parties.

[Redacted signature]

Charles W. Parrott
Associate Deputy Administrator
Fruit and Vegetable Programs
Agricultural Marketing Service

3/11/14
Date signed

[Redacted signature]

Shelton S. Smallwood, Esq.
Attorney for Complainant

3/10/14
Date signed

[Redacted signature]

Edward P. Drobnick
President, Drobnick Distributing, Inc.

3-7-14
Date signed

Sign: [Redacted signature]
Print: Effie Anastassiou, Esq.
Attorney for Respondent

3-7-14
Date signed

Done at Washington, D.C.

this 12 day of MAR, 2014

[Redacted signature]

Jill S. Clifton
Administrative Law Judge