

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) PACA Docket No. D-13-0211
)
)
Fresh World One, Inc.,)
)
)
Respondent)

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 Amended Complaint, filed on May 2, 2013, alleged that Respondent, during the period September 2008 through November 2010, failed to make full payment promptly to ten sellers of the agreed purchase prices in the total amount of \$328,497.11 for 223 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in interstate and foreign commerce. 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 publication thereof.¹

The Complaint was served upon Respondent, Respondent agrees that the Secretary has jurisdiction in this matter, and Respondent waives all further proceedings in this matter. The parties have now agreed to the entry of a Consent Decision and Order as set forth herein. Therefore, this Consent Decision and Order is entered without further procedure or hearing

¹ Complainant sought publication of the facts and circumstances surrounding Respondent's PACA violations, rather than revocation of Respondent's PACA license, since Respondent's license was terminated by the Agricultural Marketing Service (AMS) on August 4, 2010, pursuant to section 4(a) of the PACA (7 U.S.C. § 499d(a)), when the Bankruptcy Court confirmed Respondent's Chapter 11 Plan of Reorganization.

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).

Findings of Fact

1. Respondent is a corporation organized and existing under the laws of the Commonwealth of Virginia. Respondent's business and mailing address is 6901 Hechinger Drive, Springfield, Virginia 22151-4105. Respondent is currently operating subject to the PACA.
2. At all times material herein, Respondent was operating subject to the provisions of the PACA. License number 20081017 was issued to Respondent on June 11, 2008. Respondent filed for Chapter 11 Bankruptcy (11 U.S.C. §101 *et seq.*) on May 20, 2009. The license was terminated by the AMS on August 4, 2010, pursuant to section 4(a) of the PACA (7 U.S.C. § 499d(a)), when the Bankruptcy Court confirmed Respondent's Chapter 11 Plan of Reorganization. Respondent is currently operating subject to the PACA without a valid and effective license.
3. Respondent, during the period September 2008 through November 2010, on or about the dates and in the transactions set forth in Appendix A to the Amended Complaint, failed to make full payment promptly of the agreed purchase prices, or balances thereof, for 223 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in interstate and foreign commerce from 10 sellers, in the total amount of \$328,497.11.
4. The Secretary has jurisdiction to enter a decision in this matter.

Conclusions

Respondent willfully violated section 2(4) of the PACA (7 U.S.C. § 499b(4)).

Respondent's failure to make full payment promptly of the agreed purchase prices, or balances thereof, for the perishable agricultural commodities that it purchased, received, and accepted in interstate and foreign commerce constitutes willful, 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 willful, flagrant, and repeated violations of the PACA, and the facts and circumstances of the violations shall be published.² However, that finding and publication shall be permanently held in abeyance, so long as, within twenty (20) business days from the date of issuance of this Consent Decision, Respondent:

- 1) Submits a completed PACA license application to AMS;
- 2) Obtains a \$250,000.00 license bond or bond equivalent acceptable to AMS³; and
- 3) Pays a civil penalty in the amount of \$37,500.00. The check in payment of the civil penalty should be made payable to the United States Treasury and bear the docket number (PACA D-13-0211) of this proceeding.

Should Respondent fail to satisfy the terms of this Order, upon written request by Complainant, the finding and publication stated above will no longer be abated, and an Order will be issued without further process or procedure that will take immediate effect. Should Respondent satisfy the terms, the case will be considered resolved and closed.

² See, n.l.

³ The bond will be in effect for a period of three years and nine months.

This Order shall become final and effective upon issuance.

Copies hereof shall be served upon parties.

Bruce W. Summers
Associate Deputy Administrator
Fruit and Vegetable Program
Agricultural Marketing Service

6/12/14
Date signed

Christopher Young, Esq.
Attorney for Complainant

6-3-14
Date signed

Sign: _____
Print: JASON C. KIM
For Respondent

6-6-14
Date Signed

Done at Washington, D.C.

this 19 day of JUN, 2014

Jill S. Clifton
Administrative Law Judge