

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
)
 Jones Potato Chip Co,) PACA Docket No. D-20-J-0117
)
 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 Complaint filed herein, on April 21, 2020, alleged that Respondent had committed willful, flagrant and repeated violations of section 2(4) of the PACA by failing to make full payment promptly.

The Complaint sought the issuance of a decision finding that Respondent had committed willful, flagrant and repeated violations of section 2(4) of the PACA, and ordering that Respondent's PACA license be revoked (or suspended) pursuant to section 8(a) of the PACA (7 U.S.C. § 499h(a)). In cases where alleged PACA debt in a Complaint has been paid in full, rendering the case one of "slow-pay", as here, the appropriate sanction is suspension. *In re Scamcorp, Inc., d/b/a Goodness Greeness*, 57 Agric. Dec. 527, 547-549 (1998)

The Complaint was served upon Respondent, and Respondent agrees that the Secretary has jurisdiction in this matter and waives all further proceedings in this matter. Respondent further waives all rights to seek judicial review and otherwise challenge or contest the validity of this decision, including waiving challenges to the Administrative Law Judge's authority to enter this Decision and Order under the Administrative Procedure Act and the Constitution of the United States, and waives any action against the United States Department of Agriculture under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 *et seq.*) for fees and other expenses incurred by Respondent in connection with this proceeding or any action against any USDA

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employee in their individual capacity.

The parties agree that the Secretary has jurisdiction to issue an order in this proceeding, and have 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 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 State of Ohio. Respondent's business and mailing address is 823 Bowman Street, Mansfield, Ohio 44903.
2. At all times material herein, Respondent was licensed and/or operating subject to the provisions of the PACA. License number 2011 0707 was issued to Respondent on March 31, 2011. The license is currently active due to be renewed on March 31, 2021.
3. Respondent, during the period November 2018 through March 2019, in the transactions set forth in Appendix A to the Complaint and incorporated by reference, failed to make full payment promptly to four sellers for sixty-six (66) lots of perishable agricultural commodities which Respondent purchased, received, and accepted in interstate commerce, in the total amount of \$438,673.32. All sellers listed in the Complaint have been paid in full.

Conclusions

Respondent's failure to make full payment promptly to 4 sellers of the agreed purchase prices of the perishable agricultural commodities described in the Findings of Fact above

constitutes willful, flagrant, and repeated violations of section 2(4) of the PACA (7 U.S.C. § 499b(4)).

Order

A finding is made that Respondent has committed repeated and flagrant violations of section 2(4) of the PACA (7 U.S.C. §499b(4)), and Respondent’s PACA license shall be suspended for a period of 30 days pursuant to section 8 of the PACA (7 U.S.C. §499h).

However, that license suspension shall be held in abeyance so long as Respondent pays a civil penalty of \$5,000.00 immediately upon issuance of this Consent Decision and Order. Payment of the civil penalty shall be made by certified check or bank check made payable to the “United States Treasury” and delivered to the United States Department of Agriculture, Agricultural Marketing Service, PACA Division, 1400 Independence Avenue, S.W. Room 1510 South Bldg., Washington, D.C. 20250. If Respondent pays the civil penalty as stated above, the suspension will be permanently abated, and the case will be closed.

This Order shall become final and effective upon issuance. Copies hereof shall be served

upon the parties.

CHRISTOPHER YOUNG Digitally signed by CHRISTOPHER YOUNG
DN: cn=CHRISTOPHER YOUNG, o=

Christopher Young, Esq.
Attorney for Complainant



Robert G. Jones
For Respondent

8-7-20
Date signed

8-10-20
Date signed

Done at Washington, D.C.
this 18th day of August, 2020



Administrative Law Judge