

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

REC'D - USDA/OALJ/OHC
2020 SEP 23 PM 12:13

In re:)
)
Sunrise International, LLC,) PACA Docket No. D-18-0080
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)
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 September 26, 2018, 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 4 sellers of the agreed purchase prices in the total amount of \$329,508.65 for 444 lots of perishable agricultural commodities, which were purchased, received, and accepted in the course of interstate and foreign commerce, during the period of September 2014 through January 2017.

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 the facts and circumstances of Respondent's PACA violations be published pursuant to section 8(a) of the PACA (7 U.S.C. § 499h(a)).

The Complaint was served upon Respondent, and Respondent filed an answer denying the allegations of the Complaint, particularly that any failures to pay were willful; Respondent stated in its answer that any failures to pay that occurred were beyond its control. At this time, Respondent still maintains that any failures to pay were beyond its control; however, to save the time and expense that would be incurred during litigation, Respondent agrees to enter into this



Consent Decision. 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 employee in their individual capacity.

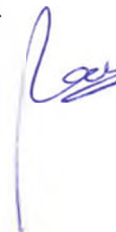
The parties have now agreed to the entry of a Consent Decision and Order as set forth herein. Therefore, this Consent Decision and Order is entered without further procedure or hearing pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted 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 or was a limited liability company organized and existing under the laws of the State of Florida. Respondent's business and mailing address is or was 1335 NW 21st Terr Bay 4, Miami, Florida 33142.

2. At all times material herein, Respondent was licensed and/or operating subject to the provisions of the PACA. License number 2013 1055 was issued to Respondent on June 28, 2013. The license terminated on June 28, 2017, pursuant to section 4(a) of the PACA (7 U.S.C. § 499d(a)), after Respondent failed to pay the required annual renewal fee.

3. Respondent, during the period September 2014 through January 2017, on or



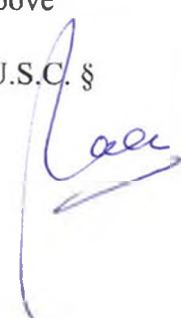
about the dates and in the transactions set forth in Appendix A to the Complaint and incorporated by reference, failed to make full payment promptly to four sellers for 444 lots of perishable agricultural commodities which Respondent purchased, received, and accepted in interstate and foreign commerce, in the total amount of \$329,508.65.

4. On June 22, 2017, Respondent filed a Voluntary Petition pursuant to Chapter 7 of the Bankruptcy Code (11 U.S.C. § 701 *et seq.*) in the United States Bankruptcy Court, Southern District of Florida. This petition was designated Case No. 17-17828-LMI. Respondent admits in its bankruptcy Schedule F that it owes three of the four creditors/sellers listed in Appendix A to the Complaint undisputed, unsecured produce debt in the amount of \$ 404,060.27. (See Appendix B to the Complaint).

5. The Secretary has jurisdiction to issue an order in this proceeding.

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 issued that Respondent has engaged in flagrant and repeated violations of the PACA for failing to pay the produce sellers listed in the Complaint and its Appendices, and the facts and circumstances of Respondent’s PACA violations shall be published pursuant to section 8(a) of the PACA (7 U.S.C. § 499h(a)).

Any attendant responsibly connected sanctions that flow or result from this case will begin upon the effective date of this Decision and Order.

This Order shall become final and effective upon issuance.

Copies hereof shall be served upon the parties.

CHRISTOPHER YOUNG
Digitally signed by CHRISTOPHER YOUNG
Date: 2020.08.26 12:22:56 -04'00'

Christopher Young, Esq.
Attorney for Complainant

8/26/20
Date signed



Robert A. Arthur
For Respondent

9/17/2020
Date signed

Done at Washington, D.C.

this 23rd day of September, 2020



Channing D. Strother
Chief Administrative Law Judge