

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

REC'D - USDA/DALJ/OHC
2020 OCT 27 AM 8:30

In re:)
)
First Fruits Holdings LLC,) PACA Docket No. D-20-J-0148
d/b/a Four Rivers Onion Packing,)
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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 July 22, 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 to five (5) sellers of the agreed purchase prices in the total amount of \$1,172,846.08 for 18 lots of perishable agricultural commodities, which were purchased, received, and accepted in the course of interstate and foreign commerce, during the period of November 2016 through July 2018.

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

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 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 and existing under the laws of the state of North Carolina, and its mailing address is or was 390 Feltham Road, Weiser, Idaho 83672.
2. At all times material herein, Respondent was licensed and/ or operating subject to the provisions of the PACA. License number 20150931 was issued to Respondent on July 28, 2015. Respondent's license was designated as "active with bankruptcy" when Respondent filed for Chapter 11 bankruptcy on April 27, 2018, and Respondent's license terminated on April 27, 2019, 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. On April 27, 2018, Respondent filed a Voluntary Petition pursuant to Chapter 11 of the Bankruptcy Code (11 U.S.C. § 1101 *et seq.*) in the United States Bankruptcy Court, Eastern District of North Carolina. This petition was designated Case No. 18-02135-5-DMW. The Schedule F filed in the bankruptcy (Appendix B to the Complaint) admits that collectively the five sellers listed in Appendix A to the Complaint in this case are owed undisputed unsecured

produce debt in the amount of \$363,070.45. The parties have agreed to rely on this amount in this Consent Decision.

4. Respondent, during the period November 2016 through July 2018, on or about the dates and in the transactions set forth in Appendix A to the Complaint in this case and incorporated by reference, failed to make full payment promptly to five (5) sellers for 18 lots of perishable agricultural commodities which Respondent purchased, received, and accepted in interstate and foreign commerce, in the total amount of \$363,070.45.

Conclusions

Respondent's failure to make full payment promptly to five (5) sellers of the agreed purchase prices of the perishable agricultural commodities described in Findings of Fact paragraphs 3 and 4, 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 willful, flagrant, and repeated violations of the PACA for failing to pay the produce sellers as stated in the Conclusions above, 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)).

This Order shall become final and effective upon issuance.

Copies hereof shall be served upon the parties.

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CHRISTOPHER YOUNG
Date: 2020.10.19 09:35:26
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Christopher Young, Esq.
Attorney for Complainant

10/19/20

Date signed



Louis W. Diess, III
Attorney for Respondent

10/19/2020

Date signed

Done at Washington, D.C.

this 26 day of OCT, 2020



Jill S. Clifton
Administrative Law Judge