

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

REC'D - USDA/OALJ/HCO
2021 DEC 15 8:30 AM

In re:) PACA Docket No. D-20-J-0019
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Hood River Juice Company, Inc.,)
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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 November 20, 2019, 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 12 sellers of the agreed purchase prices in the total amount of \$3,607,420.77 for 1,207 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in the course of interstate and foreign commerce, during the period of November 2014 through February 2019. 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 revoking Respondent's PACA license 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 to the Complaint. Complainant and Respondent now consent and agree, for the purpose of settling this matter, to the entry of this Consent Decision and Order, pursuant to section 1.138 of the Rules of Practice (7 C.F.R. § 1.138). Respondent admits that the Secretary has jurisdiction in this matter. The parties agree to the issuance of the following Consent Decision and Order without further

procedure or hearing. Respondent specifically waives its right to any further process or procedure in this proceeding. 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.

Therefore, this Consent Decision and Order is entered without further procedure or hearing pursuant to the consent decision provisions (7 C.F.R. §1.138) 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.

Findings of Fact

1. Respondent is a corporation organized and existing under the laws of the State of Oregon. Respondent's business and mailing address is 550 Riverside Drive, Hood River, Oregon 97031.
2. At all times material herein, Respondent was licensed and/or operating subject to the provisions of the PACA. License number 2006 1299 was issued to Respondent on September 19, 2006. The license is currently active.
3. Respondent, during the period November 2014 through February 2019, on or about the dates and in the transactions set forth in Appendix A (attached to the Complaint filed) failed to make full payment promptly to 12 sellers for 1,207 lots of perishable agricultural commodities which Respondent purchased, received, and accepted in interstate and foreign

commerce, in the total amount of \$3,607,420.77.

Conclusions

Respondent's failure to make full payment promptly to the sellers of the agreed purchase prices of the perishable agricultural commodities described in Finding of Fact paragraph 3 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, and Respondent's PACA license shall be revoked pursuant to section 8(a) of the PACA (7 U.S.C. § 499h(a)). However, this finding and the revocation of Respondent's license shall be held in abeyance so long as Respondent pays the produce sellers listed in Appendix A to the Complaint the full amounts owed to each seller, as listed in Appendix A to the Complaint, and referenced in Finding of Fact paragraph 3 above, within six months (180 days) of the effective date of this Consent Decision and Order.

The PACA Division of the Agricultural Marketing Service shall be the final arbiter of whether full payment to the produce sellers in the amounts listed in Appendix A to the Complaint has been paid. It will be Respondent's obligation to demonstrate that full payment as described above has been made.

Once full payment to sellers is made, Respondent shall pay a civil penalty in the amount of \$20,000.00. Payment of the civil penalty must be made within 60 days from the date that that full payment to the sellers stated above is satisfactorily demonstrated (payments of the civil penalty may be made over time, so long as payment of the full \$20,000.00 civil penalty is made within 60 days of demonstration of payment of the sellers [and within 240 days of the effective

date of this Consent Decision]). Payment shall be by certified check or bank check made payable to the “United States Treasury” and delivered to the United States Department of Agriculture, PACA Branch—Attention: Trade Practices Section, 1400 Independence Avenue, S.W. Room 1510 South Bldg., Stop 0242 Washington, D.C. 20250-0242.

If full payment is made within the 180 days stated above, and Respondent pays the \$20,000.00 civil penalty as described above, the finding of willful, flagrant, and repeated violations of the PACA and the revocation of Respondent’s license will be permanently abated, and the case will be closed.

If full payment to the sellers, in the amounts listed in the Appendix A to the Complaint and as described in Finding of Fact paragraph 3 above, and subsequent payment of the \$20,000 civil penalty is not made in the manner described above, then the finding of willful, flagrant, and repeated violations, as stated in the “Conclusions” section above, and the revocation of Respondent’s PACA license, will no longer be held in abeyance and will be made without further proceeding, *except* the filing of a Notice by Complainant, informing the Administrative Law Judge that Respondent has failed to comply with the terms of the Consent Decision and Order, and requesting the issuance of an appropriate Order .

This Order shall become effective upon issuance.

Copies hereof shall be served upon parties.



David Ryan
Title: *President*
For Respondent

12/8/21
Date signed

CHRISTOPHER YOUNG
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Date: 2021.12.11 10:12:11 -05'00'

12/11/21

Christopher Young, Esq.
Attorney for Complainant

Date Signed

Done at Washington, D.C.

this 14th day of December, 2021

CHANNING STROTHER

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Date: 2021.12.14 17:08:09 -05'00'*

Channing D. Strother
Chief Administrative Law Judge