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UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

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In re:	)	PACA Docket No. D-18-0047
	)	
Northwest Produce, LLC,	)	
	)	
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), which is conducted pursuant to the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 *et seq.*) (Rules or Rules of Practice).

On June 15, 2018, Complainant filed a Complaint alleging that Respondent, during the period July 2015 through June 2017, on or about the dates and in the transactions set forth in Appendix A to the Complaint, failed to make full payment promptly to eleven (11) sellers for 101 lots of perishable agricultural commodities which Respondent purchased, received, and accepted in interstate and foreign commerce, in the total amount of \$85,054.97. Respondent filed a timely 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.

### Findings of Fact

(a) Respondent was a limited liability company organized and existing under the laws of the State of Idaho. Respondent's business and mailing address was 1262 E. Exchange Street, Boise, Idaho 83716. Respondent is no longer operating. The Complaint was served on Respondent's President and 50 percent owner of record, Henry Michael Grasmick, whose home address was provided to the Office of Hearing Clerk for service purposes; it was withheld from the Complaint and is withheld from this Consent Decision and Order to protect the owner's personal information and privacy.

(b) At all times material herein, Respondent was licensed and/or operating subject to the provisions of the PACA. License number 2015 0245 was issued to Respondent on December 23, 2014. On February 12, 2018, the license was terminated pursuant to section 4(a) of the PACA (7 U.S.C. § 499d(a)) when the company failed to pay the renewal fee.

(c) The Complaint alleges an unpaid amount of \$85,054.97. Within 120 days of service of the Complaint in this matter, Respondent has satisfied all the produce debt alleged as unpaid in the transactions set forth in Appendix A to the Complaint.

### Conclusions

Respondent failed to make full payment promptly<sup>1</sup> to eleven (11) sellers for 101 lots of perishable agricultural commodities which Respondent purchased, received, and accepted in interstate and foreign commerce, during the period July 2015 through June 2017, on or about the dates and in the transactions set forth in Appendix A to the Complaint, in the total amount of

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<sup>1</sup> "Full payment promptly" is defined and more fully described in section 46.2(aa) of the regulations (7 C.F.R. § 46.2(aa)).

\$85,054.97. Respondent's failure to satisfy all of the undisputed produce debt described above until July 2018 constitutes slow payment and not prompt payment under the Act and regulations.

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 is ordered to pay a civil penalty in the amount of \$15,000.00 in lieu of the publication of the facts and circumstances of the violations.

However, the finding of violation shall be held in abeyance so long as Respondent pays a civil penalty of \$15,000.00 no later than 60 days after the effective date of this Consent Decision and Order, or no later than December 31, 2018, whichever occurs first. Payment 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, PACA Division, 1400 Independence Avenue, S.W. Room 1510 South Bldg., Stop 0242 Washington, D.C. 20250-0242.

Should Respondent fail to pay the \$15,000.00 civil penalty within the time prescribed above, the finding of flagrant and repeated violation ordered above and any responsibly connected sanction that flows therefrom, will take effect without further process or procedure five (5) days after Respondent receives notice from the Associate Deputy Administrator of AMS indicating that Respondent has violated the terms of this Order. Should Respondent satisfy the terms of the Order, the finding of violation ordered above will be permanently abated without further process or procedure and the case will be effectively closed.

This Consent Decision and Order is effective upon issuance.

  
Henry Michael Grasmick  
Representative for Respondent

  
Shelton S. Smallwood, Esq.  
Attorney for Complainant

Issued at Washington, D.C.

this 30<sup>th</sup> day of October, 2018

  
~~Acting~~ Chief Administrative Law Judge

*Channing D. Strother*