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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:)	PACA Docket No. D-16-0069
)	
Mi Pueblo Latin Market, Inc.,)	
)	
)	
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 March 1, 2016, alleged that Respondent had committed willful, flagrant and repeated violations of section 2(4) of the PACA by failing, during the period of August 2013 through August 2015, to make full payment promptly to six (6) sellers for sixty lots of perishable agricultural commodities which Respondent purchased, received, and accepted in interstate and foreign commerce in the total amount of \$428,165.36. 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 publishing the facts and circumstances of the violations pursuant to section 8(a) of the PACA (7 U.S.C. § 499h(a)).

The Complaint was served upon Respondent and Respondent did not file an answer to the Complaint. Respondent agrees that the Secretary has jurisdiction in this matter, Respondent waives all further proceedings in this matter, and 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 (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 Colorado. Respondent's business and mailing address is or was 15421 E. Batavia Drive, Aurora, Colorado 80011.

2. At all times material herein, Respondent was licensed and/or operating subject to the provisions of the PACA. License number 20131034 was issued to Respondent on June 25, 2013. The license terminated on June 25, 2014, pursuant to section 4(a) of the PACA (7 U.S.C. § 499d(a)), when Respondent failed to pay the required annual renewal fee.

3. Respondent, during the period August 2013 through August 2015, on or about the dates and in the transactions set forth in Appendix A¹ attached to the Complaint and incorporated by reference, failed to make full payment promptly to five (5) sellers for multiple lots of perishable agricultural commodities which Respondent purchased, received, and accepted in interstate and foreign commerce, in the total amount of \$335,147.96.

4. Respondent has demonstrated that at this time, all of the produce sellers identified in Appendix A to the Complaint are paid in full.

¹ Excluding those transactions involving the produce seller Grande Produce Ltd. Co.; Respondent has demonstrated that it paid Grande Produce Ltd. Co. in full prior to the filing of the Complaint.

Conclusions

Respondent's failure to make full payment promptly to five 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 pursuant to section 8(a) of the PACA (7 U.S.C. § 499h(a)) that Respondent has engaged in willful, flagrant, and repeated violations of the PACA, and Respondent's violations shall be published. However, because Respondent paid the unpaid Produce sellers listed in Appendix A to the Complaint in full, this finding shall be held in abeyance so long as Respondent pays a civil penalty in the amount of \$65,000.00.

Payment of the civil penalty must be made on or before Thursday, September 1, 2016. Payment of the civil penalty 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 Division, 1400 Independence Avenue, S.W. Room 1510 South Bldg., Stop 0242 Washington, D.C. 20250-0242.

If Respondent pays the \$65,000.00 civil penalty as described above, the finding of willful, flagrant, and repeated violations of the PACA will be permanently abated, and the case will be closed.

If payment of the \$65,000.00 civil penalty is not made in the manner described above, then the finding of willful, flagrant, and repeated violations, as stated above, will no longer be held in abeyance and will be made without further proceeding, *except* notice by Complainant,

which may come in the form of conference call (including the parties and the Administrative Law Judge) or an email (including as recipients the parties and the Administrative Law Judge) 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.


Christopher Young, Esq.
Attorney for Complainant

8/12/16
Date Signed


Jason R. Klinowski, Esq.
Attorney for Respondent

8/11/16
Date Signed


Jaime A. Cueva
Principal/Owner of Respondent

8-10-16
Date Signed


Dancien Cueva
Principal/Owner of Respondent

8-10-16
Date Signed

Issued at Washington, D.C.
this 17 day of August, 2016



Jill S. Clifton
Administrative Law Judge