

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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| In re: |) | PACA Docket No. D-16-0033 |
| |) | |
| Gregory Melton d/b/a GM Brokerage, |) | |
| |) | |
| 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 December 23, 2015, Complainant filed a Complaint alleging that Respondent, during the period December 2013 through October 2014, on or about the dates and in the transactions set forth in Appendix A to the Complaint, failed to promptly remit net proceeds to 22 sellers for 101 lots of perishable agricultural commodities which Respondent received, accepted, and sold on behalf of growers in interstate and foreign commerce, in the total amount of \$440,902.56. The Respondent timely filed an Answer to the Complaint, in which it denied the allegations of 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 is an individual doing business as GM Brokerage in the state of Tennessee.

(b) At all times material herein, Respondent was licensed or operating subject to the provisions of the PACA. License number 19951434 was issued to Respondent on June 6, 1985. The license terminated on June 6, 2016 pursuant to section 4(a) of the PACA (7 U.S.C. § 499d(a)), when Respondent failed to pay the annual renewal fee.

(c) The Complaint alleges that Respondent, during the period December 2013 through October 2014, on or about the dates and in the transactions set forth in Appendix A, attached to the Complaint and incorporated by reference, failed to remit net proceeds to twenty-two (22) sellers for 101 lots of perishable agricultural commodities which Respondent received, accepted, and sold on behalf of growers in interstate and foreign commerce, in the total amount of \$440,902.56.

(d) Respondent has paid the sellers the debt alleged as unpaid in the transactions set forth in Appendix A to the disciplinary Complaint.

Conclusions

Respondent failed to remit net proceeds promptly¹ to 22 sellers for 101 lots of perishable agricultural commodities which Respondent purchased, received, and accepted in interstate and foreign commerce, during the period December 2013 through October 2014, on or about the dates and in the transactions set forth in Appendix A to the Complaint, in the total amount of \$440,902.56.

¹ "Full payment promptly", which includes failure to promptly remit net proceeds, is defined and more fully described in section 46.2(aa) of the regulations (7 C.F.R. § 46.2(aa)).

Order

A finding is made that Respondent has committed willful, flagrant and repeated violations of section 2(4) of the PACA (7 U.S.C. §499b(4)) and Respondent's violations shall be published.

However, the finding of violation and its publication shall be held in abeyance so long as Respondent pays a civil penalty of \$37,500.00 no later than 15 days after the effective date of this Consent Decision and Order, or no later than November 30, 2016, 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 \$37,500.00 civil penalty within the time prescribed above, the finding of willful, flagrant and repeated violations 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.

[Redacted signature]

For Respondent

[Redacted signature]

Christopher Young, Esq.
Attorney for Complainant

Issued at Washington, D.C.

this 10 day of NOV, 2016

[Redacted signature]

Administrative Law Judge

Jill S. Clifton for
Bobbie J. McCartney
Chief Admin. Law Judge