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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	
	)	
James H. Paxson & Sons, Inc.,	)	PACA Docket No. D-16-0021
	)	
	)	
	)	**Decision Without Hearing By Reason of**
Respondent	)	**Admissions**

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 on November 6, 2015, alleged that Respondent, during the period February 2011 through October 2012, failed to make full payment promptly to thirteen (13) sellers of the agreed purchase prices in the total amount of $739,474.33 for 347 lots of perishable agricultural commodities, which Respondents purchased, received, and accepted in interstate and foreign commerce.

The Complaint requested that the Administrative Law Judge issue a finding that Respondent willfully, flagrantly and repeatedly violated section 2(4) of the PACA (7 U.S.C. § 499b(4)) and publish the facts and circumstances of Respondent's PACA violations pursuant to section 8(a) of the PACA (7 U.S.C. § 499h(a)). On December 17, 2015, Respondent filed an Answer, wherein Respondent admitted all the material allegations of fact in the Complaint.

On April 21, 2016, Judge Janice K. Bullard issued an Order finding that 1) a five year statute of limitations applies in administrative cases seeking imposition of penalties; 2) none of the actions in the Complaint in this case occurred more than five years before the Complaint was filed, and the Complaint was not time barred; 3) Respondent filed an Answer in which it admitted the material allegations of the Complaint; and 4) Complainant filed, with its brief filed on March 10, 2016, a Motion for Decision Without Hearing based on Respondent's admissions.

Judge Bullard directed Complainant to file a proposed Decision, and Respondent to show cause in writing why a Decision Without Hearing By Reason Of Admissions should not be issued.

The findings of fact and conclusions of law set forth in Judge Bullard's April 21, 2016 Order are fully supported by the record and are therefore hereby adopted for all purposes in this proceeding. Based on admissions made in the Answer, Complainant's Motion filed on March 10, 2016, and upon Respondent's failure to show cause in writing by not later than thirty (30) days from Judge Bullard's April 21, 2016 Order as directed therein, I find that circumstances exist which obviate the necessity for a hearing and warrant the issuance of a Decision Without Hearing in this case. Therefore, this Decision and Order is issued pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent is a corporation organized and existing under the laws of the state of Pennsylvania. Respondent's business and mailing address was 4602 Baltimore Pike, Oxford, Pennsylvania 19363.

2. At all times material herein, Respondent was licensed and operating subject to the provisions of the PACA. License number 19750109 was issued to Respondent on July 23, 1974. The license terminated on July 23, 2013, 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 February 2011 through October 2012, on or about the dates and in the transactions set forth in Appendix A attached hereto and incorporated by reference, failed to make full payment promptly to thirteen (13) sellers for 347 lots of perishable agricultural commodities which Respondent purchased, received, and accepted in interstate and foreign commerce, in the total amount of $739,474.33.

Conclusions

Respondent violated section 2(4) of the PACA (7 U.S.C. § 499b(4)). The failure of Respondent to make full payment promptly of the agreed purchase prices, or balances thereof, for the perishable agricultural commodities that it purchased, received, and accepted in interstate and foreign commerce, as stated in paragraph 3 above, constitutes flagrant and repeated violations of section 2(4) of the PACA (7 U.S.C. § 499b(4)).

Order

Respondent committed flagrant and repeated violations of section 2(4) of the PACA. The facts and circumstances of Respondent's violations shall be published.

This order shall take effect on the day that this Decision becomes final.

Pursuant to the Rules of Practice governing procedures under the PACA, this Decision will become final without further proceedings 35 days after service hereof unless appealed to the Secretary by a party to the proceeding within 30 days after service as provided in sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139 and 1.145).

Copies hereof shall be served upon parties.

Done at Washington, D.C.
this 1st day of June, 2016

[redacted]

Bobbie J. McCartney
Chief Administrative Law Judge

CERTIFICATE OF SERVICE

James H. Paxson & Sons. Inc.,
PACA Docket No. D-16-0021

Having personal knowledge of the foregoing, I declare under penalty of perjury that the information herein is true and correct and this is to certify that a copy of the foregoing has been furnished and was served upon the following parties on June 1, 2016 by the following:

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Respectfully Submitted,

[redacted]

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