

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 Arizona. Respondent's business address is 561 W. Gold Hills Road, Nogales, Arizona 85621. Respondent's mailing address is P.O. Box 699, Nogales, AZ 85628.
2. At all times material herein, Respondent was licensed and operating subject to the provisions of the PACA. License number 19175522 was issued to Respondent on April 14, 1958. The license has been renewed annually, and is next subject to renewal on April 14, 2015.
3. During the period April 2012 through April 2013, Respondent purchased, received, and accepted, in interstate and foreign commerce, from twelve sellers, 104 lots of perishable agricultural commodities, and failed to make full payment promptly of the agreed purchase prices, in the total amount of \$690,537.39.
4. During the period September 2012 through April 2013 Respondent, while acting as a growers' agent, failed to remit net proceeds to four growers for 34,100 packages of perishable agricultural commodities which Respondent received, accepted and sold on behalf of growers in interstate and foreign commerce, in the total amount of \$87,643.95.

Conclusions

Respondent's failure to make full payment promptly to twelve sellers of the agreed purchase prices of the perishable agricultural commodities described in Finding of Fact paragraph 3, and its failure to remit net proceeds to four growers for packages of perishable agricultural commodities which Respondent sold on behalf of growers described in Finding of Fact paragraph 4, 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 balance of the full amounts owed to each seller, as listed in Appendix A to the Complaint, and referenced in Finding of Fact paragraph 3 above, and pays the produce growers listed in Appendix B to the Complaint the balance of the full amounts owed to each grower, as listed in Appendix B to the Complaint, and referenced in Finding of Fact paragraph 4 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 and the growers listed in Appendix B 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 the sellers and growers is made, Respondent shall pay a civil penalty in the amount of \$70,000. Payment of the civil penalty must be made within the 180 day time period from the effective date of this Consent Decision and Order, or within 5 business days from the date of demonstration of full payment of creditors. 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 Division, 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 \$70,000.00 civil penalty as described above, the finding of willful, flagrant, and repeated violations of the PACA and the revocation of Respondent's license as stated in the Order above will be withdrawn, and the case will be closed.

If full payment to the sellers in the amounts listed in the Appendix A to the Complaint and the growers in the amounts listed in Appendix B to the Complaint and as described in Finding of Fact paragraphs 3 and 4 above, and subsequent payment of the \$70,000 civil penalty is not made in the manner described above, then the finding of willful, flagrant, and repeated violations, as stated 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.

[Redacted signature]

Bruce W. Summers
Associate Deputy Administrator
Fruit and Vegetable Program
Agricultural Marketing Service

8/25/14
Date signed

[Redacted signature]

Christopher Young, Esq.

7-30-14
Date signed

[Redacted signature]

Jeffrey M. Chebot, Esq.
Attorney for Respondent

8/1/2014
Date Signed

Done at Washington, D.C.

this 21st day of August, 2014

[Redacted signature]

Peter M. Davenport
Chief Administrative Law Judge