

In re:)	PACA Docket No. D-04-0027
)	
Frutech, Inc.)	
)	
Respondent)	Decision Without Hearing by Reason of Consent

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*) (“the Act”) and the regulations issued thereunder (7 C.F.R. Part 46)(“the Regulations”), instituted by a Complaint filed on August 26, 2004 by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture.

The Complaint alleged that Respondent Frutech, Inc. (hereinafter “Respondent”) failed to make full payment promptly in the total amount of \$245,825.50 to five (5) sellers for 15 lots of perishable agricultural commodities which it purchased, received, and accepted in interstate and foreign commerce during the period February 2003 through November 2003, and requested that the Administrative Law Judge find that Respondent has wilfully, flagrantly and repeatedly violated Section 2(4) of the PACA (7 U.S.C. § 499b(4)), and order that the facts and circumstances of these violations be published.

A copy of the Complaint was served upon Respondent, which filed an Answer, denying the allegations of the complaint.

The parties have now agreed to the entry of a Decision Without Hearing by Reason of Consent as set forth herein. Therefore, this Decision Without Hearing by Reason of Consent is



entered without further procedure or hearing pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

Findings of Fact

1. Frutech, Inc.(hereinafter "Respondent") is a corporation incorporated in the state of New York. Its business mailing address is 91 Freedom Avenue, Staten Island, New York 10314.

2. At all times material herein, Respondent was licensed under the PACA. License number 19960850 was issued to Respondent on February 20, 1996. The license terminated on February 20, 2004, 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 2003 through November 2003, failed to make full payment promptly to five (5) sellers of the agreed purchase prices in the total amount of \$245,825.50 for 15 lots of perishable agricultural commodities that Respondent purchased, received, and accepted in the course of interstate and foreign commerce.

Conclusion

Respondent's failure to make full payment promptly for perishable agricultural commodities, as set forth in Finding of Fact 3 above, constitutes wilful, flagrant and repeated violations of section 2(4) of the PACA.

Order

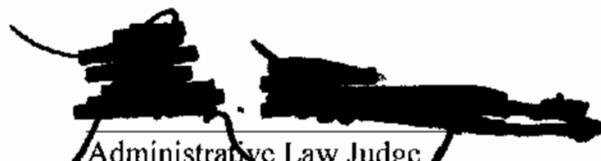
Respondent is found to have engaged in wilful, repeated and flagrant violation of Section 2(4) of the PACA (7 U.S.C. § 499b(4)).

The facts and circumstances of these violations shall be published pursuant to Section 8(a) of the PACA (7 U.S.C. § 499h(a)).

This order shall become final upon issuance. Copies of this order shall be served upon the parties.

Done at Washington, D.C.

this 16th of December, 2005


Administrative Law Judge
PETER M. DAVENPORT

For Respondent



for Frutech, Inc.

For Complainant



Associate Deputy Administrator
Fruit and Vegetable Programs
Agricultural Marketing Service



Paul T. Gentile, Esq.
Attorney for Respondent



Charles L. Kendall, Esq.
Attorney for Complainant