

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	PACA Docket No. D-08-0065
	)	
Champion Produce, Inc.	)	
	)	
Respondent	)	Decision Without Hearing by
	)	Reason of Default

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.) (“PACA”), instituted by a Complaint filed on February 22, 2008, by the Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United States Department of Agriculture. The Complaint alleges that during the period of May 2006 through February 2007, Respondent Champion Produce, Inc. (“Respondent”) failed to make full payment promptly to 41 sellers of perishable agricultural commodities of the agreed purchase prices in the total amount of \$566,681.10 for 249 transactions involving perishable agricultural commodities, which Respondent purchased, received, and accepted in, or in contemplation of, interstate commerce.

A copy of the Complaint was served upon Respondent by certified mail on February 27, 2008. Respondent has not answered the Complaint. The time for filing an answer having run, and upon the motion of Complainant for the issuance of a Decision Without Hearing by Reason of Default, the following decision and order is issued without further investigation or hearing pursuant to Section 1.139 (7 C.F.R. § 1.139) 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”).

### Findings of Fact

1. Respondent is a corporation organized and existing under the laws of the State of Texas. Respondent's business and mailing address was 3122 Produce Road, Houston, TX 77023. Respondent ceased business operations on or about February 20, 2007.
2. At all times material herein, Respondent was licensed under the provisions of the PACA. License number 20040949 was issued to Respondent on June 23, 2004. The license is still in effect and its anniversary date is June 23, 2008.
3. Respondent, during the period May 2006 through February 2007 failed to make full payment promptly to 41 sellers of the agreed purchase prices, or balances thereof, in the total amount of \$566,681.10 for 249 transactions involving perishable agricultural commodities, which Respondent purchased, received, and accepted in, or in contemplation of, interstate commerce.

### Conclusions

Respondent's failure to make full payment promptly regarding the 249 transactions involving perishable agricultural commodities, which is described in Finding of Fact No. 3 above, constitutes willful, flagrant and repeated violations of Section 2(4) of the Act (7 U.S.C. § 499b(4)). Therefore, Respondent has willfully, flagrantly and repeatedly violated Section 2(4) of the PACA (7 U.S.C. §§ 499b(4)), and Respondent's license shall be revoked.

Pursuant to the Rules of Practice, this Decision will become final without further proceedings 35 days after it is served unless a party to the proceeding appeals the Decision to the Secretary 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 of this Decision shall be served upon the parties.

Done at Washington, D.C.  
this 9<sup>th</sup> day of May, 2008

Marc R. Hillson  
Administrative Law Judge