

ORIGINAL

USDA
OALJ/OHC

2015 MAY -1 AM 10:16

RECEIVED

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) PACA Docket No. D-15-0075
)
)
Pros Ranch Market CA, LLC,)
)
)
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). The Complaint filed herein, on February 12, 2015, alleged that Respondent had committed willful, flagrant and repeated violations of section 2(4) of the PACA by failing to make full payment promptly to seventeen (17) sellers of the agreed purchase prices in the total amount of \$1,252,222.36 for 286 lots of perishable agricultural commodities, which Respondent purchased, received, and accepted in the course of interstate and foreign commerce, during the period of December 2012 through June 2013. The Complaint sought the issuance of an order finding that Respondent had committed willful, flagrant and repeated violations of section 2(4) of the PACA, and revoke Respondent's license pursuant to section 8(a) of the PACA (7 U.S.C. § 499h(a)).

The Complaint was served upon Respondent, Respondent agrees that the Secretary has jurisdiction in this matter, and the parties have now agreed to the entry of a Consent Decision and Order as set forth herein. Respondent did not Answer the Complaint but neither admits nor denies the allegations contained therein. Respondent agrees, solely for the purposes of settling this proceeding, to the following Consent Decision and Order. Respondent waives all further

proceeding in this matter. 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.

For purposes of settling this matter, Respondent admits the jurisdictional allegations set forth in paragraph II of the disciplinary Complaint, but neither admits nor denies the remaining allegations in the Complaint. The parties agree to the entry of the following Decision and Order which may be issued without further procedure or hearing.

The following findings and conclusions are made without any determination as to whether or not the "responsibly connected" parties to the Respondent, as that term is defined in section 1(b)(9) of the PACA (7 U.S.C. § 499a(b)(9)), knowingly, intentionally, or recklessly committed any wrongful acts or defalcations of their obligations under the PACA. The PACA Division has issued its initial determination that Jeffrey C. Provenzano; Michael A. Provenzano, Jr.; Michael A. Provenzano, III; Richard S. Provenzano; Steven R. Provenzano; and Pros Ranch Markets Holding, Inc. were "responsibly connected" to Respondent at the time of the alleged violations. As part of settling this matter, the parties named above agree not to challenge their initial "responsibly connected" determinations, without any of the named parties admitting or denying that they were "responsibly connected" parties to the Respondent, and agree to waive any further proceedings involving their responsibly connected determinations.

Findings of Fact

1. Respondent is a limited liability corporation formed and existing under the laws of the state of California. Respondent's business and mailing address is 1602 E. Roosevelt Street, Phoenix, Arizona 86006.

2. At all times material herein, Respondent was licensed under the provisions of the PACA, or operating subject to those provisions. License number 2013 1294 was issued to Respondent on September 4, 2013. The license is due for renewal on September 4, 2016.

Conclusions

Respondent has admitted the jurisdictional facts and the parties have agreed to the entry of this Consent Decision and Order. Therefore, this Decision and Order shall be entered without further procedure or hearing pursuant to section 1.138 of the Rules of Practice (7 C.F.R. § 1.138).

Order

A finding is made that Respondent has engaged in flagrant and repeated violations of section 2(4) of the PACA, and Respondent's PACA license shall be revoked. Employment sanctions and licensing restrictions of the "responsibly connected" parties, will take effect immediately upon issuance of this Order.

This Order shall become final and effective upon issuance.

Copies hereof shall be served upon parties.

[Redacted signature]

Melissa Bailey
Associate Deputy Administrator
Fruit and Vegetable Program
Agricultural Marketing Service

4/30/15
Date signed

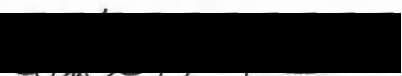
[Redacted signature]

Shelton S. Smallwood, Esq.
Attorney for Complainant

4/29/15
Date signed


David J. Hindman
Attorney for Respondent

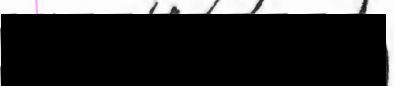
4/29/15
Date Signed


Effie Anastassiou
Attorney for Responsibly Connected Parties

4/28/15
Date Signed


Jeffrey C. Provenzano
Responsibly Connected Individual

4/28/15
Date Signed


Michael A. Provenzano, Jr.
Responsibly Connected Individual

4-28-15
Date Signed


Michael A. Provenzano, III
Responsibly Connected Individual

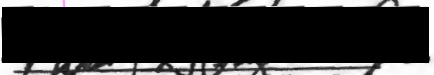
4-28-15
Date Signed


Richard S. Provenzano
Responsibly Connected Individual

4-20-15
Date Signed


Steven R. Provenzano
Responsibly Connected Individual

4-28-15
Date Signed


Pros Ranch Markets Holding, Inc.
Responsibly Connected Party
Title: President

4-28-15
Date Signed

Done at Washington, D.C.

this 1 day of MAY, 2015



~~Jill F. Clifton~~ Jill S. Clifton
Administrative Law Judge