

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) DNS-FAS Docket No. 08-0016
)
AWB LTD. and its Affiliated Companies,)
)
Petitioner) **ORDER OF DISMISSAL**

Upon consideration of the Petition, the Motion to Dismiss filed on behalf of the United States Department of Agriculture (USDA) by its Foreign Agricultural Service (FAS), and arguments the attorneys for the parties summarized in a telephone conference held on December 17, 2007, the petition is hereby **DISMISSED**.

The petition sought a declaratory order vacating the USDA's December 20, 2006 Notice of Suspension and Proposed Debarment of the petitioner and terminating the debarment proceeding that was being conducted. The petitioner sought to raise various procedural irregularities in the way FAS has conducted the proceeding and the lack of timeliness of any decision that shall ensue.

I have concluded that I lack jurisdiction to give the relief sought. My power as an Administrative Law Judge in respect to decisions of a suspending or debaring official of USDA is limited to those expressed in 7 C.F.R. §§ 3017.765 and 3017.890, and I may not vacate the proceeding before the decision itself has been entered. However, this order of dismissal, is not meant to prejudice or bar petitioner, if it may need to appeal an adverse decision entered against it in the pending debarment proceeding, to again raise the issues of timeliness and the procedural irregularities it set forth in the dismissed petition.

Dated: _____

Victor W. Palmer
Administrative Law Judge