

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	PACA-APP Docket No. 06-0001
)	
James O. Lewis)	
)	
Petitioner)	
)	
)	and
)	
In re:)	PACA-APP Docket No. 06-0003
)	
Jim J. Snell)	
)	
Petitioner)	
)	and
)	
In re:)	PACA-APP Docket No. 06-0004
)	
Robert D. Hawk)	
)	
Petitioner)	
)	

Ruling Denying Motion for Separate Hearing

Petitioner Robert D. Hawk, Jr. filed a Motion for Separate Hearing on April 28, 2006 in the above-captioned consolidated matters. Pursuant to Rule of Procedure 1.137(b), Petitioner Hawk’s Motion is denied.

Petitioner Hawk is one of four individuals¹ cited by the Chief of USDA’s PACA Branch as being responsibly connected to the Hale-Halsell Company, a company which has been cited for, and found liable for, disciplinary violations of the Perishable

¹ Petitioner Robert D. Hawk, Sr. passed away during the pendency of this proceeding, and I dismissed his Petition on July 5, 2006.

Agricultural Commodities Act. There is no pending action against Hale-Halsell. All four cited individuals filed petitions for review of the final determination by the Chief of the PACA Branch that they were responsibly connected to Hale-Halsell. At the time of the prehearing conference on this matter, a Decision by Reason of Default had been entered against Hale-Halsell by Judge Davenport.² Under Rule 1.137(b), the administrative law judge is required to consolidate multiple petitions for review of responsibly connected determinations where the same licensee is involved. Accordingly, I stated at the prehearing conference, and confirmed in the Summary of Teleconference I issued on March 17, 2006, that the four³ cases would be consolidated for hearing. However, I also stated, at the request of counsel, that I would accept any pretrial motions by April 28. Petitioner Jim Snell and Respondent filed Responses in opposition to the Motion for Separate Hearing.

The principal basis Hawk provides for his motion is that the consolidated trial would increase the cost of his litigation, since his individual case would presumably take only one day, while the consolidated hearing is scheduled for five days. However, it is likely that the written evidence and the testimony of many of the witnesses will overlap in some areas and that the overall efficiency of the hearing process will be greatly enhanced by conducting a consolidated proceeding. Having each witness consecutively cross-examined by each party increases the likelihood of eliciting all the pertinent facts. Most critically, it appears that I have no discretion to rule otherwise given the unambiguous language in the rule.

² Hale-Halsell appealed the default decision to the Judicial Officer, whose decision denying the appeal was issued on April 20, 2006.

³ With the dismissal of Robert D. Hawk, Sr.'s Petition, there are now three consolidated cases.

Wherefore, Petitioner Robert D. Hawk, Jr.'s Motion for Separate Hearing is
DENIED.

MARC R. HILLSON
Chief Administrative Law Judge

August 1, 2006