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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) PACA Docket No. D-09- 0140
)
Garber Farms,)
)
Respondent) Consent Decision

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*; hereinafter the "PACA"). The Complaint alleges that Respondent Garber Farms willfully, flagrantly, and repeatedly violated Section 2(5) of the PACA (7 U.S.C. § 499b(5)) by misrepresenting by word, act, mark, stencil, statement or deed, the state of origin of sweet potatoes that it sold to customers in the course of interstate commerce. More specifically, the Complaint alleges that in 2008, Respondent sold 39,638 boxes of sweet potatoes that had been grown in Mississippi and Alabama with markings to indicate that the sweet potatoes were from Louisiana. The parties have now agreed to entry of this Consent Decision. Therefore, this Consent Decision is entered without further procedure or hearing pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R § 1.130 *et seq.*; hereinafter the "Rules of Practice") applicable to this proceeding (7 C.F.R. § 1.138).

Finding of Fact

1. Garber Farms is a partnership registered in the State of Louisiana. Respondent's business address is 3405 Des Cannes Hwy, Iota, Louisiana, 70543.
2. Respondent is licensed under the provisions of the PACA. License number 20021586 was issued to Respondent on August 23, 2002. This license is next subject to renewal on or before August 23, 2009.
3. Respondent misrepresented by word, act, mark, stencil, statement, or deed, the state of origin of sweet potatoes that it sold to customers in the course of interstate commerce. More specifically, in 2008, Respondent sold sweet potatoes that had been grown in Mississippi and Alabama in 39,638 boxes with markings that indicated that the sweet potatoes were from Louisiana.
4. Respondent neither admits nor denies that, in 2008 it sold 39,638 boxes of sweet potatoes that had been grown in Mississippi and Alabama with markings to indicate that the sweet potatoes were from Louisiana.

Conclusion

Respondent's acts of misrepresenting the state of origin of sweet potatoes, as described in Finding of Fact 3 above, constitute willful, flagrant, and repeated violations of Section 2(5) of the PACA (7 U.S.C. § 499b(5)).

Order

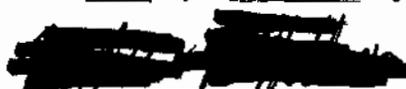
A finding is issued that Respondent has engaged in repeated and flagrant violations of the PACA. Respondent's PACA license is revoked. However, that finding and the revocation of Respondent's license shall be held in abeyance in

accordance with the terms of the Understanding Regarding the Consent Decision (hereinafter the "Understanding") entered into between Complainant and Respondent. If Respondent fails to satisfy the terms of the Understanding, the revocation of Respondent's PACA license will automatically take effect without further procedure, upon application of Complainant to the Administrative Law Judge. Respondent explicitly waives all further procedure regarding this case.

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

Done at Washington, D.C.

this 24th day of JUNE 2009

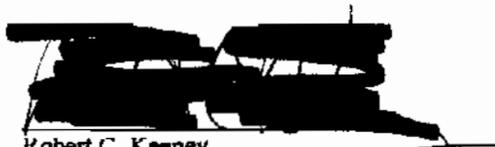

ADMINISTRATIVE LAW JUDGE

FOR RESPONDENT:

Garber Farms
Respondent

By 
PARTNER
Title

FOR COMPLAINANT:


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Agricultural Marketing Service


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