

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	PACA Docket No. D-10-0048
)	
The Kinoko Company,)	
)	
Respondent)	Decision Without Hearing by Reason of Consent

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This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended, (7 U.S.C. § 499a *et seq.*; hereinafter PACA), and the Regulations issued thereunder (7 C.F.R. Part 46; hereinafter Regulations). The proceeding was initiated by a Complaint filed against The Kinoko Company (hereinafter Respondent) on December 2, 2009, by the Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, pursuant to the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §1.130 *et seq.*, hereinafter Rules of Practice).

The parties have now agreed to the entry of a Decision Without Hearing by Reason of Consent as set forth herein. Therefore, this Decision Without Hearing by Reason of Consent is entered without further procedure or hearing pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. §1.136).

Findings of Fact

- (1) Respondent was a California corporation whose business address was 4039 Calle Platino, Suite E, Oceanside, California 92058, and whose mailing address was P.O. Box 6548, Oceanside, California 92052.

- (2) At all times material to this Decision, Respondent was licensed under the provisions of the PACA. License number 20080752 was issued to Respondent on April 16, 2008. This license is currently active.
- (3) At all times material herein, Craig R. Anderson, an individual, was subject to employment restrictions under section 8(b) of the PACA (7 U.S.C. § 499h(b)). Craig R. Anderson's employment restrictions began on May 1, 2008.
- (4) By letter dated May 20, 2008, the PACA Branch of the Agricultural Marketing Service informed Respondent that pursuant to the PACA, unlawful employment of or affiliation with Craig R. Anderson could result in suspension or revocation of Respondent's PACA license.
- (5) An investigation conducted by the PACA Branch between August 26, 2008 and November 14, 2008 determined that Respondent was unlawfully affiliated with Craig R. Anderson, during the period in which he was subject to employment restrictions under section 8(b) of the PACA (7 U.S.C. § 499h(b)).

Conclusions

Respondent has unlawfully been affiliated with Craig R. Anderson during the period of his employment sanction, after being given notice by the PACA Branch that pursuant to the employment restrictions of section 8(b) of the PACA, Respondent was not permitted to affiliate with Craig R. Anderson without approval of the Secretary and the posting of a surety bond.

Order

Respondent willfully violated section 8(b) of the PACA (7 U.S.C. §499h(b)) when it unlawfully affiliated Craig R. Anderson, as described above.

Based on Respondent's violations, Respondent's PACA license is revoked. The details of this consent decision and order shall be published.

This order shall become effective upon issuance. Copies hereof shall be served upon the parties.

Done at Washington, D.C.

this 21 of February, 2011

[Redacted signature block]

Administrative Law Judge

*for Victor [unclear]
US Administrative Law Judge*

For Respondent:

[Redacted signature block]

Mark C. H. Mandell
Attorney for Respondent

For Complainant:

[Redacted signature block]

Robert C. Keeney
Deputy Administrator
Fruit and Vegetable Programs
Agricultural Marketing Service

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Attorney for Complainant