



UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) PACA Docket No. D-09-0189
)
Anthony J. Spinale, and)
Mister Sprout, Inc.)
) Decision Without Hearing
) by Reason of Consent
Respondents)

Preliminary Statement

This is a disciplinary proceeding under the Perishable Agriculture Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*) (PACA), instituted by a Notice to Show Cause and Complaint and Request for Expedited Hearing filed on September 9, 2009, by the Associate Deputy Administrator, Fruit and Vegetable Program, Agricultural Marketing Service, United States Department of Agriculture. The Complaint alleged that Respondents willfully violated section 8(b)(3) of the PACA (7 U.S.C. § 499h(b)(3)), when Respondent Mister Sprout, Inc., employed or was affiliated with Respondent Anthony J. Spinale during the period in which Respondent Anthony J. Spinale was subject to PACA employment restrictions. The employment restrictions began on January 18, 2008, and the Complaint alleged that Respondent Mister Sprout, Inc., unlawfully employed or was affiliated with Respondent Anthony J. Spinale, after being given notice, from January 18, 2008, through January 18, 2009, and from January 18, 2009, through January 18, 2010, without posting a suitable surety bond. Respondents Anthony J. Spinale and Mister Sprout, Inc. filed an Answer denying the allegations in the Complaint.

Respondents and Complainant have now agreed to the entry of a Decision Without Hearing by Reason of Consent. Therefore, this Decision Without Hearing by Reason of Consent is entered without further procedure or hearing pursuant to the consent decision provision of the Rules of Practice Governing Formal Adjudicatory

Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.138) (Rules of Practice).

Findings of Fact

1. Anthony J. Spinale (Respondent Spinale) is an individual. Respondent Spinale's current mailing address is in care of his attorney, Linda Strumpf, Attorney at Law, at 244 Colonial Road, New Canaan, Connecticut 06840.

2. Mister Sprout, Inc. (Respondent Mister Sprout) is a corporation whose business address is B-266 NYC Terminal Market, Bronx, New York 10474. Respondent Mister Sprout's current mailing address is in care of its attorney, Linda Strumpf, Attorney at Law, at 244 Colonial Road, New Canaan, Connecticut 06840. At all times material herein, Respondent Mister Sprout was licensed under the provisions of the PACA. License number 1920-6441 was issued to Respondent Mister Sprout on November 10, 1964. This license has been renewed annually and is next subject to renewal on or before November 10, 2014.

Conclusions

Respondents admit the jurisdictional allegations in paragraph II of the Complaint and specifically admit that the Secretary has jurisdiction in this matter, and neither admit nor deny the remaining allegations of the Complaint. Respondents waive oral hearing and further procedure, and consent to the entry of the following Order. The parties, without acknowledging the accuracy of any assertions or the validity of any arguments, agree to the entry of this Decision and Order for the sole purpose of resolving any and all issues between the parties.

Order

Pursuant to section 8(e) of the PACA (7 U.S.C. § 499h(e)), Respondents are jointly and severally assessed a civil penalty in the amount of Forty Thousand Dollars (\$40,000).

This Order shall become final upon issuance.

Copies of this Order shall be served upon the parties.

For Respondents

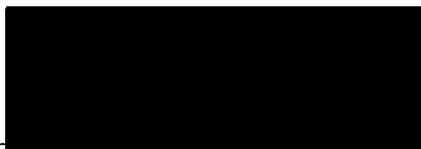
For Complainant

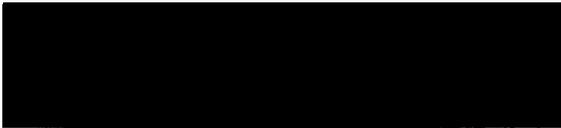

Anthony J. Spinale


Charles W. Parrott
Deputy Administrator
Fruit and Vegetable Program
Agricultural Marketing Service


Anna D'Amicio
For Respondent Mister Sprout, Inc.


Charles L. Kendall, Esq.
Attorney for Complainant


Linda Strumpf, Esq.
Attorney for Respondents


Leah C. Battaglioli, Esq.
Attorney for Complainant

Done at Washington, D.C.

this 26 of Aug, 2014


Administrative Law Judge

Janice K. Bullard