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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

RECEIVED

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|-------------------------|---|----------------------------|
| In re: |) | PACA Docket No. D-16-0148 |
| |) | |
| Hop Hing Produces Inc., |) | |
| |) | |
| Respondent |) | Consent Decision and Order |

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*) (PACA), which is conducted pursuant to the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 *et seq.*) (Rules or Rules of Practice).

On August 16, 2016, Complainant filed a Complaint alleging that Respondent unlawfully employed Yuqing (Henry) Wang (or Mr. Wang) during the period that Mr. Wang was subject to PACA employment sanctions and under PACA employment restrictions, after being given notice by Complainant, the PACA Division (Specialty Crops Program) of the Agricultural Marketing Service (AMS), that Respondent was not permitted to employ Mr. Wang without approval of the Secretary and the posting of a surety bond.

Complainant and Respondent now consent and agree, for the purpose of settling this matter, to the entry of this Consent Decision and Order, pursuant to section 1.138 of the Rules of Practice (7 C.F.R. § 1.133). Respondent admits that the Secretary has jurisdiction in this matter. The parties agree to the issuance of the following Consent Decision and Order without further procedure or hearing. Respondent specifically waives its right to any further process or procedure in this proceeding.

Findings of Fact

(a) Respondent is a corporation whose business and mailing address is listed with the AMS as 58-45 47th Street, Maspeth, New York 11378-2106. At all times material herein, Respondent was licensed under the provisions of the PACA. License number 2010-1374 was issued to Respondent on September 30, 2010. This license is currently active.

(b) At all times material to the Complaint and herein, Yuqing (Henry) Wang, an individual, was subject to employment sanctions as provided in section 8(b) of the PACA (7 U.S.C. §499h(b)). Mr. Wang's restrictions pursuant to that section of the Act began on June 18, 2014; beginning on that date, Mr. Wang was prohibited, *inter alia*, from being employed by or affiliated with a PACA licensee in any capacity for a period of two years, until June 18, 2016. Mr. Wang was *eligible* to be employed or affiliated with a PACA licensee after one year from the June 18, 2014 date that employment sanctions went into effect, on June 18, 2015, provided that he (or the licensee with whom he was employed) sought and obtained the approval of AMS, and posted a surety bond in form and amount satisfactory to the AMS. (7 U.S.C. §499h(b)). No such approval was sought by Mr. Wang or Respondent.

(c) By letter dated on or about November 12, 2014, the AMS informed Respondent that Mr. Wang was under PACA employment restrictions, and could not be employed by or affiliated with a PACA licensee in any capacity without the approval of the Secretary of Agriculture and the posting of a suitable surety bond in form and amount approved by the Secretary. Respondent was also informed that continued employment of or affiliation with Mr. Wang in any capacity,

without the approval of the Secretary and appropriate bond, could result in suspension or revocation of Respondent's PACA license.

(d) By letter dated on or about November 19, 2014, the AMS reiterated to Respondent that Mr. Wang was under PACA employment restrictions, and informed Respondent that employment of or affiliation with Mr. Wang in any capacity after December 13, 2014, without the approval of the Secretary and appropriate bond, could result in suspension or revocation of Respondent's PACA license.

(e) Neither Respondent nor Mr. Wang sought the Secretary's approval of Mr. Wang's employment by Respondent.

(f) An investigation conducted by the AMS in September 2015 determined that Respondent employed Mr. Wang from at least July 2014 through September 2015.

Conclusions

Respondent has unlawfully employed Yuqing (Henry) Wang from at least July 2014 through September 2015, during the period that Mr. Wang was under PACA employment restrictions, after being given notice by the AMS that pursuant to section 8(b) (7 U.S.C. §499h(b)) of the PACA, Respondent was not permitted to employ Yuqing (Henry) Wang without approval of the Secretary and the posting of a surety bond.

Order

A finding is made that Respondent violated section 8(b) of the PACA (7 U.S.C. §499h(b)), and Respondent's PACA license is hereby revoked.

However, that finding and revocation shall be held in abeyance so long as Respondent pays a civil penalty of \$40,000.00 no later than thirty days (30 days) from the effective date of this Consent Decision and Order. All payments shall be made by **certified check or bank check** made payable to the "**United States Treasury**" and delivered (**by method other than by regular mail**) to the **United States Department of Agriculture, PACA Division, 1400 Independence Avenue, S.W. Room 1510 South Bldg., Stop 0242 Washington, D.C. 20250-0242.**

Should Respondent pay the \$40,000 civil penalty within the time prescribed above, the finding of violation and license revocation ordered above will be permanently abated without further process or procedure and the case will be effectively closed with no finding of violation or revocation of PACA license.

Should Respondent fail to pay the \$40,000 civil penalty within the time prescribed above, the finding of violation and license revocation ordered above will take effect without further process or procedure.

Additionally, should Respondent affiliate with or employ Yuqing (Henry) Wang as defined in section 1(b)(10) of the PACA (7 U.S.C. § 499a(b)(10)) before July 11, 2018, the finding of violation and license revocation ordered above will take effect without further process or procedure, other than upon application to the presiding Administrative Law Judge.


Respondent agrees to allow Complainant access to Respondent's place of business and access to its records for the purpose of determining whether Respondent is affiliating with or employing

Mr. Wang before July 11, 2018, should Complainant wish to confirm that Respondent is adhering to the terms of this Consent regarding employment of Mr. Wang.

This Consent Decision and Order is effective upon issuance.

Issued at Washington, D.C.

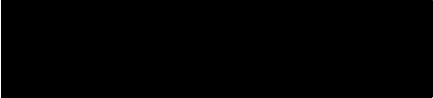
this 31st day of July, 2017


Bobbie J. McCartney
Chief Administrative Law Judge

x


Print Name:
For Respondent

Luo Ren JUN.


Christopher Young
Attorney for Complainant

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**Ren Jun Luo
Hop Hing Produces, Inc
58-45 47th St.
Maspeth, NY 11378-2106**



9590 9402 1494 5329 3828 06

2. Article Number (Transfer from service label)

7012 3460 0003 3833 5822

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X

Agent
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? If YES, enter delivery address below:

Yes
 No

**16-0148
Consent
Decision**

- 3. Service Type**
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 - Priority Mail Express®
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 - Return Receipt for Merchandise
 - Signature Confirmation™
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Domestic Return Receipt

**U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT**
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

**Ren Jun Luo
Hop Hing Produces, Inc
58-45 47th St.
Maspeth, NY 11378-2106**

mark here

Sent To

Street, Apt. No.,
or PO Box No.
City, State, ZIP+4

16-0148

PS Form 3800, August 2006 See Reverse for Instructions

CERTIFICATE OF SERVICE

Hop Hing Produces, Inc., Respondent

Docket: 16-0148

Having personal knowledge of the foregoing, I declare under penalty of perjury that the information herein is true and correct and this is to certify that a copy of the PROPOSED CONSENT DECISION AND ORDER and CONSENT DECISION AND ORDER has been furnished and was served upon the following parties on July 31, 2017 by the following:

USDA (OGC) - Electronic Mail

Christopher P. Young, OGC

Christopher.Young-Morales@ogc.usda.gov

Joyce McFadden, OGC

Joyce.McFadden@ogc.usda.gov

USDA (AMS) - Electronic Mail

PACA Investigations, AMS

PACAINvestigations@ams.usda.gov

Respondent – Certified Mail

Ren Jun Luo

Hop Hing Produces, Inc.

58-45 47th St.

Maspeth, NY 11378-2106

Respectfully Submitted,



Caroline Hill, Assistant Hearing Clerk
USDA/Office of Administrative Law Judges
Hearing Clerk's Office, Rm. 1031-S
1400 Independence Ave., SW,
Washington, DC 20250-9203