

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: )  
)  
Livingston International, Inc. ) Docket No. 22-J-0043  
)  
Respondent. ) CONSENT DECISION  
) AND ORDER

REC'D - USDA/OALJ/HCO  
2022 JUN 10 4:29 PM

This proceeding was instituted under the Plant Protection Act, as amended (7 U.S.C. §§ 7701 *et seq.*) (PPA), and the regulations promulgated thereunder (7 C.F.R. Part 319) by a Complaint filed on behalf of the Administrator for the Animal and Plant Health Inspection Service (APHIS), herein referred to as the Complainant, on April 4, 2022, alleging that the Respondent violated the PPA and the regulations promulgated thereunder. The parties have agreed that this proceeding should be terminated by entry of this Consent Decision in accordance with the consent decision provisions of the applicable rules of practice (7 C.F.R. §§ 1.130 *et seq.*) and have agreed to the following:

1. For the purposes of this Consent Decision only, the Respondent specifically admits that the Secretary of the United States Department of Agriculture has jurisdiction in this matter, neither admits nor denies the remaining allegations in the Complaint, and admits to the Findings of Fact set forth below and waives:

- a. any further procedure;
- b. any requirement that the final decision in this proceeding contain findings and conclusions with respect to all material issues of fact, law, or discretion, as well as the reasons or bases thereof; and
- c. all rights to seek judicial review and otherwise challenge or contest the validity of this Decision; and

d. waives any action against the United States Department of Agriculture under the Equal Access to Justice Act of 1980 (5 U.S.C. §§ 504 *et seq.*) for fees and other expenses incurred by the Respondent or against any employee of the United States Department of Agriculture in connection with this proceeding. Each party agrees to pay its own attorney's fees and court costs.

#### FINDINGS OF FACT

1. The Respondent Livingston International, Inc. is, and at all times material herein was, a domestic corporation organized under the laws of the State of Delaware with a business address of 670 Young Street, Tonawanda, New York 14150. Respondent is, and at all times material herein was, a freight and customs brokerage business.

2. Respondent's registered agent is the Corporation Trust Company whose business address is Corporation Trust Center 1209 Orange Street, Wilmington, Delaware 19801.

3. On or about March 28, 2017, Marc Riendeau, Inc., a foreign shipping corporation, granted Respondent customs power of attorney.

4. On or about June 21, 2019, Marc Riendeau, Inc., a foreign shipping company, imported a shipment of 1,436 bags of Egyptian-origin onions to the United States. A United States Department of Homeland Security, Customs and Border Protection Agriculture Specialist (CBPAS) conducted a document review and inspection of the shipment and discovered the following:

- a. The customs broker responsible for the shipment was Respondent.
- b. The proforma invoice contained the product description "Onions Red 20 x 2 EGYPT..." and listed the country of origin as Canada.
- c. The commercial invoice contained the product description "Onions Red 20 x

2 EGYPT....”

CONCLUSIONS OF LAW

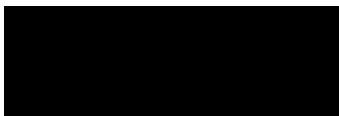
Respondent has admitted to the jurisdictional facts and Findings of Fact set forth above, and the parties have agreed to the following Order in disposition of this proceeding; therefore, this Consent Decision will be issued.

ORDER

The Respondent Livingston International, Inc. is assessed a civil penalty of thirteen thousand dollars (\$13,000). The Respondent shall send payment for thirteen thousand dollars (\$13,000) according to one of the payment procedures provided in Appendix A to this Order, payable within thirty (30) days from the effective date of this Order. The Respondent should make and keep a copy of this payment for its records.

The provisions of this Order shall become effective on the day this Consent Decision and Order is issued.

Copies of this Decision and Order shall be served upon the parties.



Robert Closner  
Attorney for Respondent



Danielle Park  
Attorney for Complainant



Livingston International, Inc.  
Respondent

Done at Washington, D.C.  
This 10th day of June, 2022

CHANNING  
STROTHER

Digitally signed by CHANNING  
STROTHER  
Date: 2022.06.10 16:24:17 -04'00'

Channing D. Strother  
Chief Administrative Law Judge

## Appendix A

### Payments to USDA APHIS Instructions

The procedures below are for payments to the USDA APHIS. Payments are accepted via Check, Money Order, ACH, Wire Transfer, PayPal, Debit Card, Credit Card, or IPAC.

**REMITTANCE ADVICE:** The remittance advice included on your payment(s) is **crucial** to ensuring the proper posting of your payment. Please **include your specific bill number(s) on your remittance** to ensure proper posting.

**Check or Money Order:** Make payable to “**USDA APHIS**”. Checks drawn from a foreign bank must say “**Payable in US Dollars**”. Include the Case # NY190029-HS in the “Note” or “Memo” section of the check or money order. Mail your payment to:

USDA APHIS  
PO Box 979043  
St. Louis MO, 63197-9000

**Debit Card, Credit Card, PayPal, or ACH:** payments can be made at [www.pay.gov](http://www.pay.gov).

**For step-by-step Pay.gov instructions see second page.**

**Bank ACH:** are processed through Remittance Express by [REDACTED].

You will need the following information to remit a payment via ACH, if not using pay.gov:

ABA: 051036706  
Name on Account: USDA, MRP, APHIS  
Account Number: [REDACTED]

**Wire Transfers:** are processed through the [REDACTED].

You will need the following information to remit a payment via Wire Transfer:

ABA: 021030004  
Name on Account: USDA, APHIS  
Account Number: [REDACTED]

**DO NOT USE THE BANK SWIFT CODE** for any Wire Transfers. This may cause your payment to be rejected.

**International Wire Transfers:** must be sent through a US correspondent bank (i.e. third party or intermediary bank) before going to the Federal Reserve Bank of New York. The US correspondent bank information should be in **bold**.

## Payments to USDA APHIS Instructions

**Debit Card, Credit Card, PayPal, or ACH:** payments can be made at [www.pay.gov](http://www.pay.gov).

1. Log on to **<https://www.pay.gov>**.
2. Click on **Find an Agency** in the header menu.
  3. Click on **Agriculture (USDA): Animal and Plant Health Inspection Service (APHIS)**.
  4. Click **Continue** under Animal and Plant Health Inspection Service (APHIS) Customers.
5. Click **Continue to the Form**.
  6. Complete the required information, which is marked by an asterisk (\*).
7. In the Service Provided By drop-down menu
  - Select **Penalty/Fine Payment**
  - Use your **Case # NY190029-HS** as the Reference Number
    - Enter Payment Amount (in U.S. Dollars).
8. Click **Submit Data**.

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**Note:** *Any fees associated with the financial transaction chosen (i.e. bank funds transfer, credit card, etc.) are the responsibility of the remitter. Please check with your financial institution for fee considerations.*

**Questions:** *Contact the ABS Helpline for any assistance in making a payment to the USDA APHIS either by voicemail at 612-336-3400 or 877-777-2128 or by email at [ABShelpline@usda.gov](mailto:ABShelpline@usda.gov). Please include your customer account number, your name or business name, and a brief summary of your request in all messages to us.*