UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

RECD - USDA/OALJ/OHC
2020 SEP 8 PM2:57

In re:	) Docket No. 20-J-0149
	)
Ports America Chesapeake, LLC,	)
	)
Respondent.	) CONSENT DECISION AND ORDER

This proceeding was instituted under the Plant Protection Act, as amended ("PPA"), 7 U.S.C. § 7701 *et seq.*, and the regulations promulgated thereunder (7 C.F.R. Part 319, Subpart L (Fruits and Vegetables), 7 C.F.R. §§ 319.56-1 through 319.56-12 and 7 C.F.R. § 330.105(a) by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, on July 23, 2020, alleging the Respondent violated the PPA.

Respondent Ports America Chesapeake, LLC admits the jurisdictional allegations in the complaint, specifically admits that the Secretary has jurisdiction in this matter, neither admits nor denies the remaining allegations, and waives oral hearing and further procedure. The parties consent and agree to the entry of this decision for the purpose of settling this proceeding as to Respondent Ports America Chesapeake, LLC. This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

FINDINGS OF FACT

1. The Respondent is a terminal operator and stevedore located at 2200 Broening Highway, Suite 100, Baltimore, Maryland 21224 and operates Seagirt Marine Terminal, located at 2600 Broening Highway, Baltimore, Maryland 21224.

2. In July 2018, Habash Trading, Inc., a wholesale food distributor, located at 6135 S. Nottingham Avenue, Chicago, Illinois 60638, imported from Egypt a shipment of 2750 cartons

(23,926.55 kilograms) of frozen vegetables into the United States. The shipment was transported from Egypt on the Maersk Line onboard M/V MSC Marianna to the Port of Baltimore in Maryland. The Bill of Lading (BOL) for the shipment was BOL # MAEU965137581, issued by the Maersk Line. The container number for the shipment was # MWCU6947872.

3. On July 5, 2018, a United States Department of Homeland Security, Customs and Border Protection (CBP) Agricultural Specialist placed a "Code 2H" miscellaneous hold (USDA) on the shipment of frozen vegetables for document review and inspection. The hold was posted on CBP's Automated Commercial Environment (ACE) database.

4. On July 9, 2018, after viewing the invoice, packing list, and permit, an Agricultural Specialist with CBP placed the shipment on a " Code 71" intensive hold for USDA devan. inspection at the Centralized Examination Station (CES)/Belt's Warehouse (BELTS) in Maryland, for additional inspection.

5. On July 13, 2018, the M/V MSC Marianna arrived at the Port of Baltimore in Maryland and the shipment of frozen vegetables was discharged at the Seagirt Marine Terminal, which is operated by the Respondent. The shipment remained on the two holds, 2H (USDA miscellaneous hold) and 71 (intensive hold).

6. On or about July 25, 2018, after the container shipment was discharged at the Seagirt Marine Terminal, Respondent moved the container shipment from the port of first arrival, the Port of Baltimore, onto freight rail despite being on two active CBP Agricultural Holds, to ship to the Port of Chicago on July 25, 2018.

CONCLUSIONS OF LAW

Respondent Ports America Chesapeake, LLC, having admitted the findings of fact set forth above, and the parties having agreed to the entry of this decision, such decision will be entered.

ORDER

The Respondent is assessed a civil penalty of eighteen thousand, seven hundred and fifty dollars ($18,750.00) which shall be paid within thirty (30) days after this Order is issued, by bank/certified check payable to USDA APHIS, indicating that the payment is made in reference to Docket No. 20-J-0149 and sent to:

USDA APHIS
P.O. Box 979043
St. Louis, Missouri 63197-9000

The Respondent should keep a copy of the bank/certified check for its' records.

The provisions of this order shall be final and effective upon issuance. This order may be executed in counterparts. Copies of this decision shall be served upon the parties.

[redacted]

Bayard Hogans, Vice President
Ports America Chesapeake, LLC
Respondent

[redacted]

Tracey Manoff
Attorney for the Complainant

Done at Washington, D.C.,
this 3rd day of September 2020

[redacted]

Chief Administrative Law Judge
Channing D. Strother