

**MISCELLANEOUS ORDERS**

**In re: PRODUCE DISTRIBUTORS, INC., AND IRENE T. RUSSO, d/b/a JAY BROKERS.**

**PACA Docket No. D-97-0013.**

**Order Lifting Stay as to Irene T. Russo, d/b/a Jay Brokers, filed February 28, 2001.**

Kimberly D. Hart, for Complainant.

Irene T. Russo, Pro se.

*Order issued by William G. Jenson, Judicial Officer.*

On January 25, 1999, I issued a Decision and Order as to Irene T. Russo, d/b/a Jay Brokers, concluding that Irene T. Russo, d/b/a Jay Brokers [hereinafter Respondent], violated the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. " 499a-499s) [hereinafter the PACA] and revoking Jay Brokers' PACA license. *In re Produce Distributors, Inc.* (Decision and Order as to Irene T. Russo, d/b/a Jay Brokers), 58 Agric. Dec. 506 (1999). Respondent filed a petition for reconsideration of the January 25, 1999, Decision and Order as to Irene T. Russo, d/b/a Jay Brokers, which I denied. *In re Produce Distributors*, 58 Agric. Dec. 535 (1999) (Order Denying Pet. for Recons. as to Irene T. Russo, d/b/a Jay Brokers).

On May 4, 1999, Respondent filed a request for a stay of the January 25, 1999, Order, pending the outcome of proceedings for judicial review. On May 17, 1999, I granted Respondent's request for a stay. *In re Produce Distributors, Inc.*, 58 Agric. Dec. 542 (1999) (Stay Order as to Irene T. Russo, d/b/a Jay Brokers).

The United States Court of Appeals for the Second Circuit affirmed the January 25, 1999, Decision and Order as to Irene T. Russo, d/b/a Jay Brokers. *Russo v. United States Dep't of Agric.*, 199 F.3d 1323 (Table), 1999 WL 1024094 (2d Cir. 1999). Respondent filed a petition for writ of certiorari which the Supreme Court of the United States denied on October 10, 2000. *Russo v. Department of Agric.*, 121 S. Ct. 308 (2000). Respondent filed a petition for rehearing for writ of certiorari which the Supreme Court of the United States denied on January 16, 2001. *Russo v. Department of Agric.*, 121 S. Ct. 871 (2001).

On January 23, 2001, the Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture [hereinafter Complainant], filed a Motion to Lift Stay Order for Irene T. Russo d/b/a Jay Brokers [hereinafter Motion to Lift Stay] requesting that I issue an order lifting the May 17, 2000, Stay Order.<sup>1</sup> Complainant further requests that any order lifting the May 17, 2000, Stay Order,<sup>2</sup> become effective 15 days from the date of issuance.

On February 23, 2001, Respondent filed a response to Complainant's Motion to Lift Stay. On February 26, 2001, the Hearing Clerk transmitted the record of this proceeding to the Judicial Officer for consideration and a ruling on Complainant's Motion to Lift Stay.

I find that proceedings for judicial review of the January 25, 1999, Decision and Order as to Irene T. Russo, d/b/a Jay Brokers, are concluded. Therefore, Complainant's Motion to Lift Stay is granted. However, Complainant has provided no basis for modifying the January 25, 1999, Order to make it effective 15 days from the date of issuance of this Order Lifting Stay as to Irene Russo, d/b/a Jay Brokers. Therefore, I decline to modify the effective date of the January 25, 1999, Order.

The Stay Order issued on May 17, 1999, *In re Produce Distributors, Inc.*, 58 Agric. Dec. 542 (1999) (Stay Order as to Irene T. Russo, d/b/a Jay Brokers), is lifted. The Order issued in *In re Produce Distributors, Inc.* (Decision and Order as to Irene T. Russo, d/b/a Jay Brokers), 58 Agric. Dec. 506 (1999), is effective, as follows:

**Order**

Jay Brokers' PACA license is revoked, effective 61 days after service of this Order on Irene T. Russo, d/b/a Jay Brokers.

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<sup>1</sup>The record does not reveal that a May 17, 2000, Stay Order was issued in this proceeding. I infer Complainant's reference to a Stay Order issued May 17, 2000, is a typographical error and Complainant intends to refer to the Stay Order issued May 17, 1999. *In re Produce Distributors, Inc.*, 58 Agric. Dec. 542 (1999) (Stay Order as to Irene T. Russo, d/b/a Jay Brokers).

<sup>2</sup>See note 1.