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UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re:)	PACA Docket No. D-10-0004
)	
Sirmon Produce, Inc., and)	
Sirmon Farm,)	
)	
Respondents)	Consent Decision

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a *et seq.*; hereinafter the "PACA"). The Complaint alleges that Respondents Sirmon Produce, Inc., and Sirmon Farm willfully, flagrantly, and repeatedly violated Section 2(5) of the PACA (7 U.S.C. § 499b(5)) by misrepresenting by word, act, mark, stencil, statement or deed, the state of origin of sweet potatoes that they packed and sold in the course of interstate commerce. More specifically, the Complaint alleges that in August and September of 2008, Respondent Sirmon Produce shipped and sold 35,788 boxes of Alabama-grown sweet potatoes that had been packed by Respondent Sirmon Farm with markings which indicated that the sweet potatoes were from Louisiana.

The parties have now agreed to entry of this Decision without further procedure or hearing pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.138). Respondents admit the jurisdictional allegations in Paragraph II of the Complaint and specifically admit that the Secretary has jurisdiction in this matter, neither admit nor deny the remaining Complaint allegations, waive oral hearing and further procedure, and consent and agree, for the purpose of settling this proceeding and for such purpose only, to entry of this Decision.

Complainant agrees to entry of this Decision.

Finding of Fact

1. Sirmon Produce, Inc., ("Sirmon Produce"), is a corporation registered in the State of Alabama. Respondent Sirmon Produce's business address is 25359 County Road 54 E, Daphne, Alabama 36526.

2. Respondent Sirmon Produce is licensed under the provisions of the PACA. License number 20011391 was issued to Respondent Sirmon Produce on August 29, 2001. This license is next subject to renewal on or before August 29, 2012.

3. Sirmon Farm is a partnership with a business address of 25359 County Road 54 E, Daphne, Alabama 36526.

4. Respondent Sirmon Farm is licensed under the provisions of the PACA. License number 20040874 was issued to Respondent Sirmon Farm on June 02, 2004. This license is next subject to renewal on or before June 2, 2011.

Conclusion

The Respondents having admitted the jurisdictional facts and the parties having agreed to the entry of this Decision, such Decision will be entered.

Order

Respondent Sirmon Produce is assessed a civil penalty of \$45,000.00 dollars. Respondent Sirmon Produce shall make payment of this civil penalty in three \$15,000.00 payments that are due 30, 60, and 90 days from the date of issuance of this Order.

The PACA license of Respondent Sirmon Farm is suspended for a period of 45 days commencing upon issuance of this Order.

Civil penalty payments shall be made in the form of a check or money order made payable to the "Treasury of the United States." The check or money order shall be sent to:

Trade Practices Section, P.A.C.A. Branch, USDA, AMS, Fruit and Vegetable Programs, Room 2095 – South Building, Stop 0242, 1400 Independence Avenue, S.W., Washington, D.C. 20250.

This Order shall become effective upon issuance. Copies of this Order shall be served upon the parties.

Done at Washington, D.C.

this 25th day of August 2010

[Redacted Signature]

ADMINISTRATIVE LAW JUDGE

FOR RESPONDENTS:

FOR COMPLAINANT:

Sirmon Produce, Inc.
Respondent

By: [Redacted Signature]

Vice-President
Title

[Redacted Signature]

Robert C. Keeney
Acting Associate Administrator
Agricultural Marketing Service

Sirmon Farm
Respondent

By: [Redacted Signature]

Managing Agent
Title

[Redacted Signature]

Lawrence H. Meuers, Esq.
Meuers Law Firm, P.L.
Attorney for Respondent

[Redacted Signature]

Charles E. Spicknall
Office of the General Counsel
Attorney for Complainant