

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) PACA Docket No. D-01-0023  
)  
Baiardi Chain Food Corp., )  
)  
Respondent ) **Order Lifting Stay Order**

On September 2, 2005, I issued a Decision and Order concluding Baiardi Chain Food Corp. violated the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. §§ 499a-499s) [hereinafter the PACA], and ordering publication of the facts and circumstances of Baiardi Chain Food Corp.'s violations.<sup>1</sup> On October 21, 2005, Baiardi Chain Food Corp. filed a petition for reconsideration, which I denied.<sup>2</sup>

Baiardi Chain Food Corp. filed a petition for review of *In re Baiardi Chain Food Corp.*, 64 Agric. Dec. 1822 (2005), and *In re Baiardi Chain Food Corp.* (Order Denying Pet. for Recons.), 64 Agric. Dec. 1994 (2005), with the United States Court of Appeals for the Third Circuit. On May 12, 2006, Eric M. Forman, Associate Deputy Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, United

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<sup>1</sup>*In re Baiardi Chain Food Corp.*, 64 Agric. Dec. 1822 (2005).

<sup>2</sup>*In re Baiardi Chain Food Corp.* (Order Denying Pet. for Recons.), 64 Agric. Dec. 1994 (2005).

States Department of Agriculture [hereinafter the Associate Deputy Administrator], filed a “Motion for a Stay Order as to Respondent Baiardi Food Chain Corp.” [hereinafter Motion for Stay] requesting a stay of the Orders in *In re Baiardi Chain Food Corp.*, 64 Agric. Dec. 1822 (2005), and *In re Baiardi Chain Food Corp.* (Order Denying Pet. for Recons.), 64 Agric. Dec. 1994 (2005), pending the outcome of proceedings for judicial review. On May 12, 2006, Baiardi Chain Food Corp. informed the Office of the Judicial Officer, by telephone, that it had no objection to the Associate Deputy Administrator’s Motion for Stay. On May 15, 2006, I issued a Stay Order.<sup>3</sup>

On March 2, 2007, the United States Court of Appeals for the Third Circuit denied Baiardi Chain Food Corp.’s petition for review.<sup>4</sup> On October 1, 2007, the Supreme Court of the United States denied Baiardi Chain Food Corp.’s petition for writ of certiorari.<sup>5</sup> On October 5, 2007, the Associate Deputy Administrator filed a motion to lift the May 15, 2006, Stay Order. Baiardi Chain Food Corp. failed to file a timely response to the Associate Deputy Administrator’s motion to lift the May 15, 2006, Stay Order.

Proceedings for judicial review are concluded. Therefore, the May 15, 2006, Stay Order is lifted; and the Order issued in *In re Baiardi Chain Food Corp.*, 64 Agric. Dec.

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<sup>3</sup>*In re Baiardi Chain Food Corp.* (Stay Order), 65 Agric. Dec. 717 (2006).

<sup>4</sup>*Baiardi Food Chain v. United States*, 482 F.3d 238 (3d Cir. 2007).

<sup>5</sup>*Baiardi Food Chain v. United States*, 128 S. Ct. 307 (Oct. 1, 2007).

1822 (2005), and *In re Baiardi Chain Food Corp.* (Order Denying Pet. for Recons.), 64 Agric. Dec. 1994 (2005), is effective as follows.

**ORDER**

Baiardi Chain Food Corp. has committed willful, flagrant, and repeated violations of section 2(4) of the PACA (7 U.S.C. § 499b(4)). The facts and circumstances of Baiardi Chain Food Corp.'s violations shall be published.

The publication of the facts and circumstances of Baiardi Chain Food Corp.'s violations shall be effective 60 days after service of this Order on Baiardi Chain Food Corp.

Done at Washington, DC

November 13, 2007

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William G. Jenson  
Judicial Officer