

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	PACA Docket No. D-04-0015
Tuscany Farms, Inc.,)	
d/b/a Genovas,)	
)	
Respondent)	
)	
	and	
In re:)	PACA Docket No. D-04-0016
Joe Genova & Associates, Inc.,)	
)	
Respondent)	
)	
	and	
In re:)	PACA Docket No. D-06-0017
Gencon Consulting, Inc.,)	
)	
Respondent)	
)	
	and	
In re:)	PACA-APP Docket No. 06-0005
Joe A. Genova,)	
)	
Petitioner)	
)	
	and	
In re:)	PACA-APP Docket No. 06-0006
Nicole Wesner,)	
)	
Petitioner)	
)	

**ORDER GRANTING JOINT MOTION FOR MODIFICATION OF
OCTOBER 15, 2008, DECISION AND ORDER AS TO TUSCANY FARMS, INC.;
JOE GENOVA & ASSOCIATES, INC.; AND JOE A. GENOVA**

On October 15, 2008, I issued a Decision and Order as to Tuscany Farms, Inc.; Joe Genova & Associates, Inc.; and Joe A. Genova, all of whom filed a timely appeal of the Decision and Order with the United States Court of Appeals for the Ninth Circuit. In February 2009, the parties entered an agreement for settlement of the appeal to the United States Court of Appeals for the Ninth Circuit. The settlement agreement provides that Tuscany Farms, Inc.; Joe Genova & Associates, Inc.; and Joe A. Genova “agree to request a dismissal, with prejudice, of their Petition for Review in the U.S. Court of Appeals for the Ninth Circuit within five days after the Judicial Officer enters an order modifying the date when Decision and Order becomes final and effective to April 30, 2009.

On March 9, 2009, the parties filed a Joint Motion for Modification of the Final and Effective Date of the October 15, 2008, Decision and Order. For good reason shown, I grant the March 9, 2009, Joint Motion for Modification of the Final and Effective Date and modify the Order in the October 15, 2008, Decision and Order as to Tuscany Farms, Inc.; Joe Genova & Associates, Inc.; and Joe A. Genova, as follows:¹

¹On January 13, 2009, Tuscany Farms, Inc.; Joe Genova & Associates, Inc.; and Joe A. Genova filed a motion for stay of the October 15, 2008, Decision and Order pending review by the United States Court of Appeals for the Ninth Circuit. The Hearing Clerk did not previously transmit the Motion for Stay Pending Review to the Office of the Judicial Officer for a ruling. In light of the instant Order Granting Joint Motion for Modification of Decision and Order as to Tuscany Farms, Inc.; Joe Genova & Associates, Inc.; and Joe A. Genova, I find the Motion for Stay Pending Review moot.

ORDER

1. Tuscany Farms 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 the violations committed by Tuscany Farms shall be published, effective April 30, 2009.

2. Joe Genova & Associates 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 the violations committed by Joe Genova & Associates shall be published, effective April 30, 2009.

3. I affirm the Acting Chief's January 12, 2006, determination that Joe A. Genova was responsibly connected with Tuscany Farms during the time Tuscany Farms willfully, flagrantly, and repeatedly violated section 2(4) of the PACA (7 U.S.C. § 499b(4)). Accordingly, Joe A. Genova is subject to the licensing restrictions under section 4(b) of the PACA and the employment restrictions under section 8(b) of the PACA (7 U.S.C. §§ 499d(b), 499h(b)), effective April 30, 2009.

Done at Washington, DC

March 10, 2009

William G. Jenson
Judicial Officer