

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
)
Steven C. Finberg,) PACA-APP Docket No. 14-0167
)
Petitioner.)

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**ORDER AFFIRMING DECISION AND ORDER ON REMAND
IN DOCKET NO. 14-0167**

Appearances:

Stephen P. McCarron, Esq., and Mary Jean Fassett, Esq., with McCarron & Deiss, Washington, D.C., for the Petitioner Steven C. Finberg; and,

Charles L. Kendall, Esq., with the Office of General Counsel, United States Department of Agriculture, Washington, D.C., for Respondent, the Administrator of the Specialty Crops Program, Agricultural Marketing Service (“AMS”).

Decision and Order issued by Judge Bobbie J. McCartney, Judicial Officer.

PRELIMINARY STATEMENT

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. §§ 499a *et seq.*) (hereinafter PACA or Act), which is conducted pursuant to the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130 *et seq.*) (hereinafter Rules or Rules of Practice).

The issue to be decided on appeal is whether Chief Administrative Law Judge Channing Strother properly found that Petitioner Steven C. Finberg was “responsibly connected,” as that term is defined under section 1(b)(9) of the PACA (7 U.S.C. § 499a(b)(9)), with Adams Produce

Company, LLC (Adams), a company that was determined to have violated the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. §§ 499a et seq.) (PACA).¹

Based upon careful consideration of the record, as well as applicable statutory, regulatory and adjudicatory precedents, and for the reasons set forth herein below, it is my determination that, based on a *de novo* review after remand, the Chief Judge properly found that Petitioner Steven C. Finberg failed to rebut the presumption that he was “responsibly connected” to Adams as an officer, director, and shareholder of the firm when Adams committed willful, flagrant, and repeated violations of section 2(4) of the PACA (7 U.S.C. § 499b) by failing to make full payment promptly for produce purchases. The evidence of record supports a finding that Petitioner’s actions were willful and facilitated the accomplishment of the violations of section 2(4) of the PACA by Adams.² By virtue of being “responsibly connected” with Adams during the period when Adams violated section 2(4) of the PACA (7 U.S.C. § 499b), Petitioner is subject to the licensing restrictions in section 4(b) of the PACA (7 U.S.C. § 499d(b)) and the employment sanctions in section 8(b) of the PACA (7 U.S.C. § 499d(b)).

SUMMARY OF PROCEDURAL HISTORY AND PRELIMINARY FINDINGS

This case has a long procedural history. On June 28, 2013, a disciplinary complaint (Complaint) was filed against Adams Produce Company LLC (Adams), for failing to make full

¹ See *Adams Produce Company LLC*, USDA Docket No. 13-0284, Default Decision and Order (November 25, 2013), available at <https://oalj.oha.usda.gov/sites/default/files/DD%20-%20Adams%20Produce%20-%2013-0284.pdf>

² Under PACA, an action is willful if a prohibited act is done intentionally, irrespective of evil intent, or done with careless disregard of statutory requirements. *Haltmier v. Commodity Futures Trading Comm’n*, 554 F.2d 556, 562 (2d Cir. 1977); *Am. Fruit Purveyors, Inc. v. United States*, 630 F.2d 370, 374 (5th Cir. 1980). See also *George Steinberg & Son, Inc. v. Butz*, 491 F.2d 988, 994 (2d Cir.), *cert. denied*, 419 U.S. 830 (1974).

payment promptly in the amount of \$10,735,186.81 to 51 produce sellers for 9,314 lots of perishable agricultural commodities that the company purchased, received, and accepted during the period of August 8, 2011 through May 18, 2012. As of the filing of the Complaint, \$1,928,417.72 remained unpaid.

On November 22, 2013, a Default Decision and Order was entered against Adams, finding that Adams willfully, repeatedly and flagrantly violated section 2(4) of the PACA, by failing to make full payment promptly as alleged in the Complaint. The Default Decision and Order became final and effective on January 8, 2014.

Petitioners Jonathan Dyer, Steven C. Finberg, Drew Johnson, and Michael S. Rawlings each filed a petition for review of the determination of the Director of the PACA Division, Specialty Crops Program, Agricultural Marketing Service (AMS; Respondent) determining that each Petitioner was "responsibly connected" with Adams, as that term is defined under section 1(b)(9) of the PACA (7 U.S.C. § 499a(b)(9)), during the period of time Adams violated section 2 of the PACA. These four "responsibly connected" cases were consolidated for hearing in accordance with 7 C.F.R. § 1.137 of the Rules of Practice by direction of Rulings and Preliminary Instructions filed on September 4, 2014. The hearings in these proceedings took place on March 22, 2016 in Dallas, Texas, and on August 23, 2016 in Washington, D.C., before Administrative Law Judge (ALJ) Jill S. Clifton (Judge Clifton).

On May 19, 2017 Judge Clifton issued a Decision and Order (Initial Decision or ID) in Dockets 14-0166, 14-0168, and 14-0169, finding that Petitioners Dyer, Johnson, and Rawlings were not "responsibly connected" with Adams during the period that Adams violated section 2(4) of the PACA. Although the four petitions for review of the Director's responsibly connected determinations were consolidated for hearing, Judge Clifton issued a separate decision

regarding Steven Finberg's responsibly connected status; on July 25, 2017, Judge Clifton issued her Decision and Order as to Docket 14-0167 (Finberg) only, affirming the determination of the Agency and finding that Petitioner Finberg was "responsibly connected" to Adams, within the meaning of the PACA, pursuant to 7 C.F.R. §499a(b)(9).

On August 21, 2017, Petitioner Finberg timely filed an appeal to the Judicial Officer asserting that he was not "actively involved" in the activities resulting in the violations, that Adams was the alter ego of Mr. Grinstead, and, therefore, that he had successfully rebutted the presumption that he was "responsibly connected" with Adams at the time it committed violations of section 2 of the PACA.

On December 28, 2017, then- Judicial Officer William G. Jenson granted remand (First Remand) in order to put to rest any Appointments Clause claim that may arise in this proceeding in light of the Solicitor General's position in *Lucia v. SEC (Raymond J. Lucia, et al. v. S.E.C., 138 S. Ct. 2044 (2018)) (Lucia)*.³ On February 1, 2018, the Judicial Officer denied Petitioner's request for reconsideration of the Remand Order in that case.

A year later, on February 7, 2019, current Judicial Officer McCartney issued a "Procedural Order Affirming Appeal Status Regarding Docket Nos. 14-0166, 14-0168, and 14-0169 and Remand Order Regarding Docket 14-0167" (Second Remand), which remanded Petitioner Finberg's case to Chief Administrative Law Judge (Chief Judge) Channing D. Strother, and vacated the July 25, 2017 Decision and Order issued by Judge Clifton. The Judicial Officer ordered that the written record which had already been made by the parties in

³ Because the hearing conducted by Judge Clifton in these proceedings took place on March 22, 2016 in Dallas, Texas, and on August 23, 2016 in Washington, D.C., and the ensuing Decision and Orders issued on July 25, 2017 predate the July 24, 2017 and December 5, 2017 actions of the Secretary of Agriculture addressing the Appointments Clause requirements; Petitioner Finberg's request for a hearing before an ALJ other than Judge Clifton was granted, and the proceedings in Docket No. 14-0167 were remanded for further proceedings to be conducted in accordance with *Lucia*.

this proceeding shall be reviewed *de novo* to determine whether to ratify or revise previous substantive or procedural ALJ actions and to determine whether the written record will be supplemented with any new testimony or other evidence. Second Remand Order, pp. 7-8.

After a new round of briefing by the parties, and a *de novo* review of the record, Chief Judge Strother issued a Decision on Remand (DOR) on February 6, 2020, in which he found that Petitioner Finberg “failed to rebut the presumption, stemming from the fact that he was an officer of Adams, that he was responsibly connected with Adams during the period it committed violations of Section 2(4) of PACA. Petitioner Finberg was actively involved in the activities resulting in the violations of section 2(4) of PACA by Adams and was not merely a nominal officer of Adams.” DOR at 2-3.

On March 12, 2020, Petitioner Finberg timely filed his Appeal Petition, appealing the Decision on Remand of Chief Judge Strother. On appeal, he raised the following two questions:

1. Did the ALJ err in deciding Steve Finberg participated and was actively involved in the activities causing Adams' violations of PACA?

2. Did the ALJ err in deciding he did not have to reach any issues regarding whether Adams was the alter ego of Scott Grinstead in determining whether Steve Finberg was responsibly connected?

DECISION

Pertinent Statutory, Regulatory, and Adjudicatory Analytical Framework

The Department’s interpretation of PACA and policy in cases arising under the Act were succinctly set out in the Judicial Officer’s decision, *Baltimore Tomato Company, Inc.*⁴ and

⁴ See *Balt. Tomato Co.*, 39 Agric. Dec. 412, 415-16 (U.S.D.A. 1980).

reaffirmed by the Judicial Officer in *The Caito Produce Co.* (“*Caito Produce*”),⁵ which sets forth at length the reasons underlying the Department’s policy. As noted by the Judicial Officer, the conclusions in *Caito Produce* are largely taken verbatim from prior decisions (including *In re Melvin Beene Produce Co.*, 41 Agric. Dec. 2422 (1982), *aff’d*, 728 F.2d 347 (6th Cir. 1984)), issued for many years in similar cases (many affirmed on judicial review), each of which updates the citations previously relied upon.⁶

Since that time, this long-settled precedent has been reiterated by succeeding Judicial Officers in more recent cases. In 2012, the Judicial Officer restated the two-prong test found in 1(b)(9) of the PACA as follows:

[T]he first prong is that a petitioner must demonstrate by a preponderance of the evidence that petitioner was not actively involved in the activities resulting in a violation of the PACA. Since the statutory test is in the conjunctive (“and”), a failure to meet the first prong of the statutory test ends the test without recourse to the second prong. However, if a petitioner satisfies the first prong, then a petitioner for the second prong must meet at least one of two alternatives: that petitioner was only nominally a partner, officer, director, or shareholder of a violating licensee or entity subject to a license; or that petitioner was not an owner of a violating licensee or entity subject to a license which was the alter ego of its owners [.] *In re Lawrence D. Salins*, 57 Agric. Dec. 1474, 1488 (1998). Thus, an officer of a violating corporation is presumed to be responsibly connected with that corporation unless the officer can demonstrate by a preponderance of the evidence that he or she (1) was not actively involved in the activities resulting in a PACA violation and (2) was either a nominal officer of the violating corporation or a non-owner of the corporation that was the alter ego of its owners.

In Re Cheryl A. Taylor & Steven C. Finberg, 71 Agric. Dec. 612, 615 (2012).

And, even more recently in *In re Nicholas Allen*,⁷ the current Judicial Officer has discussed and adopted the prior findings in *Balt. Tomato* and *Caito*, setting forth at length the

⁵ 48 Agric. Dec. 602 (U.S.D.A. 1989).

⁶ See *The Caito Produce Co.*, 48 Agric. Dec. 602, 604 (U.S.D.A. 1989).

⁷ PACA-APP Docket No. 15-J-0169, 78 Agric. Dec. ____ (U.S.D.A. 2019); 2019 WL 392884.

reasons underlying the Department’s policy. Together, the jurisprudence of these and prior cases has created a substantial body of settled law.

Statutory Definition and Requirements Pertaining to “Responsibly Connected”

Section 1(b)(9) of the PACA (7 U.S.C. § 499a(b)(9)) provides:

The term “responsibly connected” means affiliated or connected with a commission merchant, dealer, or broker, as (A) partner in a partnership, or (B) officer, director, or holder of more than 10 per centum of the outstanding stock of a corporation or association. A person shall not be deemed to be responsibly connected if the person demonstrates by a preponderance of the evidence that the person was not actively involved in the activities resulting in a violation of this Act *and* that the person either was only nominally a partner, officer, director, or shareholder of a violating licensee or entity subject to license or was not an owner of a violating licensee or entity subject to license which was the alter ego of its owners.

7 U.S.C. § 499a(b)(9) (emphasis added).

The express language of the statute makes clear that the person seeking relief from the ramifications of established PACA violations based on an assertion that he or she was not “responsibly connected” must demonstrate by a preponderance of the evidence that he or she meets all of the conditions of the two-prong test specifically set forth in section 1(b)(9) of the PACA (7 U.S.C. § 499a(b)(9)).

The standard for determining whether a person was actively involved in the activities resulting in a violation under PACA – the first prong of the “responsibly connected” test – is as follows:

A petitioner who participates in activities resulting in a violation of the PACA is actively involved in those activities, unless the petitioner demonstrates by a preponderance of the evidence that his or her participation was limited to the performance of ministerial functions only. Thus, if a petitioner demonstrates by a preponderance of the evidence that he or she did not exercise judgment, discretion, or control with respect to the activities that resulted in a violation of the PACA, the petitioner would not be found to have been actively involved in the activities that

resulted in a violation of the PACA and would meet the first prong of the responsibly connected test.

In Re: Michael Norinsberg, 58 Agric. Dec. 604, 611-12 (U.S.D.A. 1999).

The standard for analyzing the “nominal” prong – the second prong of the two-prong “responsibly connected” test – has been explained by the Judicial Officer as follows:

Taylor makes clear to me that I was remiss in failing to abandon the “actual, significant nexus” test in November 1995, when Congress amended 7 U.S.C. § 499a(b)(9) to add a two-prong test for rebutting responsible connection without reference to the “actual, significant nexus” test, the power to curb PACA violations, or the power to direct and affect operations. In future cases that come before me, I do not intend to apply the “actual, significant nexus” test, as described in *Taylor v. U.S. Dep’t of Agric.*, 636 F.3d 608 (D.C. Cir. 2011). Instead, my “nominal inquiry” will be limited to whether a petitioner has demonstrated by a preponderance of the evidence that he or she was merely a partner, officer, director, or shareholder “in name only.” While power to curb PACA violations or to direct and affect operations may, in certain circumstances, be a factor to be considered under the “nominal inquiry,” it will not be the sine qua non of responsible connection to a PACA-violating entity.

Taylor, 71 Agric. Dec. 612, 621 (U.S.D.A. 2012).

Again, the express language of the statute makes clear that the person seeking relief from the ramifications of established PACA violations based on an assertion that he or she was not “responsibly connected” must demonstrate by a preponderance of the evidence that he or she meets all of the conditions of the two-prong test specifically set forth in section 1(b)(9) of the PACA (7 U.S.C. § 499a(b)(9)). Failure to do so will result in a finding that he or she is “responsibly connected” within the meaning of the statute and is therefore subject to the licensing restrictions in section 4(b) of the PACA (7 U.S.C. § 499d(b)) and the employment sanctions in section 8(b) of the PACA (7 U.S.C. § 499d(b)).

The *Lucia* Issue:

The Chief Judge noted that Judge Clifton issued her decision as to the responsibly connected status of the three other petitioners originally consolidated with Petitioner Finberg (Jonathan Dyer, Docket No. 14-0166; Drew Johnson a/ka/ Drew R. Johnson, Docket No. 14-0168; and Michael S. Rawlings, Docket No. 14-0169), separately from that of Petitioner Finberg (DOR at 2). Although Petitioners Dyer, Johnson, and Rawlings, and Respondent AMS filed appeals of Judge Clifton's May 19, 2017 Decision to the Judicial Officer ("JO"), unlike Petitioner Finberg, none of those petitioners challenged Judge Clifton's authority under *Lucia* to hear and decide those three dockets. Therefore, these appeals went before the JO, and were decided in her January 9, 2020 Order Affirming Initial Decision and Order in Docket Nos. 14-0166, 14-0168, and 14-0169.⁸

In that Decision, the JO affirmed Judge Clifton's determinations that petitioners Dyer, Johnson, and Rawlings, although directors of Adams during the period of Adams' PACA violations, had demonstrated by a preponderance of the evidence that they were not responsibly connected with Adams during the period of the Adams PACA violations because they overcame the presumption of responsibly connected by meeting the criteria set forth in PACA, 7 U.S.C. § 499a(b)(9). Judge Clifton, as affirmed by the JO, found that petitioners Dyer, Johnson, and Rawlings had shown by a preponderance of the evidence that they were not actively involved in the activities resulting in Adams' PACA violations; that they did not have ownership interest in Adams; and that Adams was the alter ego of Scott Grinstead.

⁸ See *Dyer et al.*, USDA Docket Nos. 14-0166, 14-0168, 14-0169, Order Affirming Initial Decision and Order in Docket Nos. 14-0166, 14-0168, 14-0169 (January 9, 2020), available at https://oalj.oha.usda.gov/sites/default/files/JODO%20-%20Dyer_Redacted.pdf (last visited Feb. 4, 2020).

Discussion

The Two-Prong Analysis:

Petitioner's two questions on appeal track the two-prong analysis of section 1(b)(9) of the PACA (7 U.S.C. § 499a(b)(9)), detailed above. The Chief Judge focused on Prong One as the dispositive issue, although he did also address the facts surrounding Prong Two.

Prong One Analysis:

The Chief Judge used the following standard as to the first prong of the “responsibly connected test,” to determine whether a person was actively involved in the activities resulting in a violation under PACA (DOR at 20):

A petitioner who participates in activities resulting in a violation of the PACA is actively involved in those activities, unless the petitioner demonstrates by a preponderance of the evidence that his or her participation was limited to the performance of ministerial functions only. Thus, if a petitioner demonstrates by a preponderance of the evidence that he or she did not exercise judgment, discretion, or control with respect to the activities that resulted in a violation of the PACA, the petitioner would not be found to have been actively involved in the activities that resulted in a violation of the PACA and would meet the first prong of the responsibly connected test.

In Re: Michael Norinsberg, 58 Agric. Dec. 604, 611-12 (U.S.D.A. 1999).

The Chief Judge found that Petitioner failed to rebut the statutory presumption that he was “responsibly connected” to Adams Produce Company LLC, as an officer of the firm during the period Adams violated PACA, because he failed to meet the first prong of the statutory test (DOR at 25). He explained,

While the record indicates Mr. Grinstead was the master-mind behind the fraudulent schemes and misused company funds for his own benefit, Petitioner Finberg has not demonstrated by a preponderance of the evidence that he was not actively involved in the activities causing the PACA violations. Indeed, the record

demonstrates by a preponderance of the evidence that Petitioner Finberg's activities helped bring about the downfall of Adams, which resulted in Adams' violation of the PACA. A preponderance of the evidence shows that Petitioner Finberg was actively involved in the activities causing the PACA violations.

DOR at 24.

The Chief Judge analyzed the evidence of record pertaining to the Petitioner's contention that he was not actively involved in the fraudulent activities leading to the PACA violations.

Among other things, the Chief Judge highlighted Petitioner's admission that he was present at the luncheon which took place on October 26, 2011 "during which he learned of two buyers for Adams who admitted to inflating pricing on sales to the government, heard Adams' then-Chief Financial Officer ("CFO") Steven Alexander instruct the buyers to stop the fraudulent scheme and to "bring it in for a soft landing' to avoid detection," and that Finberg stayed silent during the luncheon. Moreover, Finberg failed to report what he learned to the Department of Justice ("DOJ")." (DOR at 19, *citing* to the Petitioner's Brief, which in turn cited to Tr. 263-264, 267).

As in *In re Anita Kaplan*, 55 Agric. Dec. 556, 558 (1988), Petitioner here adduced no evidence except his self-serving testimony to support his contention that he somehow did not commit the acts to which he pled guilty. As noted by Respondent, "But for Petitioner Finberg's activities, the fraud would have been detected and could not have continued." (Respondent's Opposition at 7). It is my determination that the evidence of record fully supports the Chief Judge's finding that Petitioner failed to rebut the presumption that he was actively involved in the criminal activities leading to the downfall of Adams; accordingly, Petitioner failed to satisfy Prong One.

Prong Two Analysis:

If a petitioner satisfies the first prong, then a petitioner for the second prong must demonstrate by a preponderance of the evidence at least one of two alternatives: (1) the petitioner was only nominally a partner, officer, director, or shareholder of a violating licensee or entity subject to a license; or (2) the petitioner was not an owner of a violating licensee or entity subject to a license which was the alter ego of its owners.

Norinsberg at 609.

Here, however, the Chief Judge found Petitioner to be neither a nominal officer nor an owner of Adams (ID at 24), obviating the necessity to proceed to an analysis of the alter ego issue. He explained that since the first prong was not met, he did not have to reach the second prong. However, anticipating an argument by Petitioner Finberg on appeal that because Dyer, Johnson and Rawlings successfully rebutted the presumption of “responsibility connected” in the related proceedings, that he too should be found to have done so; however, the evidence of record differs significantly as to Petitioner Finberg’s actions. The Chief Judge peremptorily defused that argument (DOR at 25-27; 29-30). He explained, “Nevertheless, because the record is before me, in the potential aid of proceedings on appeal, I address certain other elements of the statutory test, which do not have to be reached in this Decision as a result of Petitioner Finberg failing the first prong.” (DOR at 25). He then addressed the evidence of record which factually distinguishes Finberg’s actions from those of Dyer, Johnson and Rawlings, finding him not to be similarly situated (DOR at 30).

Among other things, the findings as to Dyer, Johnson, and Rawlings reflect that the investment company (CIC Partners) owned by those three Petitioners had no way of knowing about the fraudulent alterations made by Scott Grimstead to the financial statements of the Adams Produce Company which made the company look more profitable than it actually was, thereby inducing CIC Partners to invest (ID at 7). The record reflects that the fraudulent

activities were hidden prior to CIC's investment, and the 2009 audit they relied on was not reliable, containing alterations of accounts, reclassifying them from payables to receivables (ID at 10-11).

These findings are in sharp contrast as to Petitioner Finberg. The Chief Judge found that not only did Petitioner Finberg not join the other petitioners (Dyer, Rawlings, and Johnson) in their effort to mitigate the subject violations (DOR at 30), Finberg had actual knowledge of fraudulent activities, yet stayed silent and failed to report what he learned to the Dept of Justice (DOR at 19).

Moreover, the Chief Judge concluded,

Petitioner Finberg does not claim to have participated in any of these activities to root out wrongdoing and to get the suppliers paid, and the record is bereft of any evidence that he did. Instead, Petitioner by his own testimony continued to draw his salary as COO until the company became insolvent. The evidence shows that he is not similarly situated to the Petitioners the JO found in Dyer to have met the burden of demonstrating that they were not responsibly connected.

DOR at 30 (*citing* JO Order Affirming Initial Decision and Order in Docket Nos. 14-0166, 14-0168,14-0169 at 8-9).

It is interesting to note that both Respondent and Petitioner seemed to believe that the Chief Judge declined to reach the alter ego issue. As explained above, however, this is not so. The Chief Judge presciently anticipated the Prong Two argument. He correctly observed that a contra determination on appeal as to Prong One would require a further analysis and finding as to Prong Two to avoid an unnecessary remand. Accordingly, he provided rationale, fully supported by factual references to the record, to support his finding that, even if Petitioner had met Prong One, he would not have satisfied Prong Two. Therefore, Petitioner must still be held to be "responsibly connected" pursuant to section 1(b)(9) of the PACA (7 U.S.C. § 499a(b)(9)).

CONCLUSIONS

1. The Secretary of Agriculture has jurisdiction in this matter.
2. The Chief Judge did not err in his *de novo* factual findings, nor in his application of the law in finding Petitioner Steven C. Finberg has failed to rebut the presumption that he was “responsibly connected” to Adams Produce Company, LLC, as an officer, director, and shareholder of the firm when Adams committed willful, flagrant, and repeated violations of section 2(4) of the PACA (7 U.S.C. § 499b) by failing to make full payment promptly for produce purchases.
3. By virtue of being responsibly connected with Adams Produce Company, LLC during the period when Adams violated section 2(4) of the PACA (7 U.S.C. § 499b), Petitioner Steven C. Finberg is subject to the licensing restrictions in section 4(b) of the PACA (7 U.S.C. § 499d(b)) and the employment sanctions in section 8(b) of the PACA (7 U.S.C. § 499d(b)).

ORDER

1. The Chief Judge’s ruling that Petitioner Steven C. Finberg was “responsibly connected” within the meaning of section 1(b)(9) of the PACA (7 U.S.C. § 499a(b)(9)), is fully supported by the record and is hereby **AFFIRMED**.
2. Petitioner Steven C. Finberg is accordingly subject to the licensing restrictions in section 4(b) of the PACA (7 U.S.C. § 499d(b)) and the employment sanctions in section 8(b) of the PACA (7 U.S.C. § 499d(b)).

RIGHT TO SEEK JUDICIAL REVIEW

Petitioner has the right to seek judicial review of the Order in this Decision and Order in the appropriate United States Court of Appeals in accordance with 28 U.S.C. §§ 2341-2350. Judicial review must be sought within sixty (60) days after entry of the Order in this Decision and Order.⁹

Copies of this Decision and Order shall be served by the Hearing Clerk upon each party, with courtesy copies provided via email where available.

Done at Washington, D.C.,
this 8th day of May 2020

Judge
Bobbie J.
McCartney J.

Judge Bobbie J. McCartney
Judicial Officer

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⁹ 28 U.S.C. § 2344.