

SANDLER, REIFF & YOUNG, P.C.

50 E STREET, S.E., SUITE 300
WASHINGTON, DC 20003

JOSEPH E. SANDLER
sandler@sandlerreiff.com
NEIL P. REIFF
reiff@sandlerreiff.com

COUNSEL:
JOHN HARDIN YOUNG
young@sandlerreiff.com

TELEPHONE: (202) 479-1111
FACSIMILE: (202) 479-1115

April 7, 2004

Eileen Broomell
NOP Compliance Officer
AMS, Compliance & Analysis
United States Department of Agriculture
1400 Independence Ave., S.W.
Mail Stop 0203—Room 3529-S
Washington, D.C. 20250

Re: Complaint Against Certified Operation and Certifier for Violation of Organic Foods Production Act and NOP Regulations

Dear Ms. Broomell:

On March 11, 2004, we wrote a follow-up letter to you, in reference to the above Complaint, to report a significant development—namely, that on March 6, 2004, in a 13 to 2 vote during a meeting of the OTA Personal Care Task Force, the Task Force voted to disallow the practice of counting as “organic” the water added during steam distillation of plant material to make hydrosol water extracts. The Task Force also voted, 10 to 5, not to count any amount of hydrosol water extracts as organic until the percentage of water from plant material versus added from steam can be precisely determined.

We now enclose the OTA statement regarding the Task Force memorializing those actions. (See enclosed “Personal Care Task Force Fact Sheet,” page two, under “Recent Personal Care Task Force recommendations”). The OTA leadership in the “Fact Sheet” attempts to minimize the significance of these actions, by noting that these “recommendations” do not create binding requirements for Association members until vetted through the organization’s standards-creation process. Further, OTA President and PCTF Chair Phil Margolis had attempted to dissuade the Task Force from voting on these issues, and the “Fact Sheet” even fails to report the vote count on each motion. The text of the Motions are as follows:

Part 1

Motion: Given that the NOP specifically excludes added water from organic calculations, we agree to treat hydrosols no differently and to

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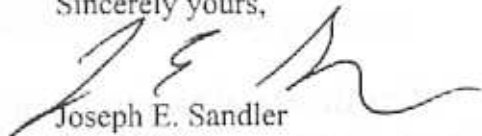
exclude the added water portion of hydrosols from organic percentage calculations.

Part 2

Motion: Until the added water contribution in a hydrosol is clearly identified and calculated, the ingredient is to be excluded in its entirety from organic calculations. (Discussion clarified this as meaning calculations for multi-ingredient products.)

There can be no doubt that these motions memorialize the strong position of OTA's most relevant membership, and reflect the majority of OTA's general membership, given that the Task Force overwhelmingly voted for, versus against or abstaining from, taking a formal position over the explicit opposition of the OTA's President. Notwithstanding the tenor of OTA's "Fact Sheet," OTA's Task Force has formalized a policy position that effectively supports the position taken in OCA's Complaint to your office—namely, that in multi-ingredient products, the water in hydrosol water extracts should be excluded in determining organic percentage calculations.

Sincerely yours,



Joseph E. Sandler

Counsel for

Organic Consumers Association

Enclosures: OTA's "Personal Care Task Force Fact Sheet"

cc: William Friedman, Esq., Counsel for Bayliss Ranch
CEO--Quality Assurance International*

*QAI was recently purchased by the company NSF International.

See: http://www.qai-inc.com/pdfs/QAI_acquisition.pdf

Personal Care Task Force Fact Sheet

OTA values member involvement in committees and task forces. Member participation contributes to association positions that are developed over time through a proven system of consensus development. Task force recommendations and decisions, however, are not official positions of the association.

Recent activities of the Organic Trade Association's Personal Care Task Force have been misrepresented to the public by some. This fact sheet is to set the record straight.

Purpose of the Personal Care Task Force

OTA's Personal Care Task Force is a task force of OTA's Quality Assurance Committee. The Quality Assurance Committee brings together technical expertise to develop organic standards and certification procedures and to provide the association with advice on technical issues relating to organic farming and processing.

The Personal Care Task Force is charged with exploring, analyzing and developing consensus standards for personal care products containing organic ingredients. The task force is not designed as a forum to discuss specific business issues between competitors. Furthermore, OTA does not condone personal attacks during association meetings, in committee or task force correspondence, or at any other time. The task force is designed to vet issues surrounding standards for organic personal care products.

Process to build consensus-based organic standards

OTA anticipates an additional working period of at least two years before OTA's personal care standards are completed. There are several steps that must be completed during that time, including public comment on proposed standards.

The process for completing standards includes:

1. Completing a thorough discussion of the issues via the Personal Care Task Force.
2. Generating draft standards for review and discussion by task force members.
3. Revising draft standards for review by OTA's Quality Assurance Committee, which includes a broad representation of OTA's voting membership, including farmers, farm input suppliers, manufacturers, distributors, retailers, certifiers, inspectors, and others.
4. Posting the proposed draft standards on OTA's web site for public comment. OTA encourages members to comment on proposed standards, and invites the public to comment as well.
5. Discussing comments and making changes as needed. Proposed standards might be posted for comment multiple times, depending on the extent of any changes.
6. The Quality Assurance Committee then reviews and recommends proposed standards for approval by OTA's Board of Directors.
7. Proposed standards must then be approved by OTA's Board of Directors before becoming OTA policy.

It is this deliberate and proven process that has secured OTA's role as a champion of organic standards that ensure organic integrity, and that ensures all positions are heard.

Recent Personal Care Task Force recommendations

On March 6, 2004, the Personal Care Task force supported the following motions made by Curt Valva of Aubrey Organics:

Part 1

Motion: Given that the NOP specifically excludes added water from organic calculations, we agree to treat hydrosols no differently and to exclude the added water portion of hydrosols from organic percentage calculations.

Part 2

Motion: Until the added water contribution in a hydrosol is clearly identified and calculated, the ingredient is to be excluded in its entirety from organic calculations. (Discussion clarified this as meaning calculations for multi-ingredient products.)

In essence, these motions affirm the task force's intent to recommend the use of US National Organic Program requirements for organic percentage calculations concerning water in multi-ingredient products, and to take a cautious approach on ingredient calculations for hydrosols until the composition of hydrosols is identified and calculated. Currently, there are not "standards of identity" to determine what can be called a hydrosol. Different people use the term to mean different things.

Until Task Force recommendations are fully vetted through OTA's standards-creation process, they remain as recommendations only, not positions of the association nor requirements for association members.

The discussion surrounding these motions was brief, and did not include any specific mention of any particular companies or products. There was no discussion concerning "schemes," "condemning" particular practices, or "addressing fraud."

Updated: March 12, 2004