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March 11, 2004

Via Hand Delivery

Eileen Broomell
NOP Compliance Officer
Agricultural Marketing Service, 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:

We are writing today, again on behalf of our client, the Organic Consumers Association, primarily to advise NOP of a significant development within the organic industry regarding the practice of counting ordinary water from steam added to hydrosol water extracts as "organic" in multi-ingredient products.

As we had indicated in footnote 3 page 7 of the Complaint filed on behalf of OCA with your office on February 18, 2004, and clarified in item 3 of the subsequent letter sent Feb. 20th, the OTA's Personal Care Task Force (PCTF) had voted on March 8, 2002 to allow counting ordinary water added to hydrosol water extracts as organic because that Task Force had been misinformed by Bayliss Ranch that there was an FDA standard of identity. OTA President and PCTF Chair Phil Margolis subsequently formally explained that the hydrosol issue was "still open" and the March 8, 2002 vote effectively void because of Bayliss Ranch's misrepresentation.

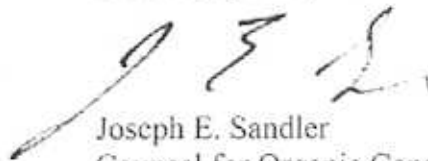
On March 6, 2004, in a 13 to 2 vote during a meeting of the Task Force held at the Natural Products Expo West in Anaheim, California, the OTA's PCTF condemned the practice of counting as "organic" water added during the steam distillation of plant material to make hydrosol water extracts. The task force subsequently voted 10 to 5 to not count any amount of hydrosol water extracts as organic until the minority percentage of water from plant material versus added from steam can be determined. We will

Eileen Broomell
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forward the exact language of the motions as soon as the minutes of the meeting are made available by the OTA.

Second, enclosed for your information is a further reply on behalf of OCA to Gay Timmons (2004 Chair of the California Organic Products Advisory Committee). It should be noted that Ms. Timmons, as a member of the OTA PCTF, voted on Saturday in the majority on the primary motion summarized above to not allow companies to count added water from steam in hydrosol water extracts as "organic," although she did vote against the secondary motion that mandated that no part of a hydrosol water extract can be counted until the minority contribution from the actual plant material can be accurately determined. Ms. Timmons had previously strongly advocated the proposition that the added water from steam should count as organic in hydrosol water extracts. OCA believes it is quite possible that Ms. Timmons, and the majority of the PCTF, may have changed their views based on the recent Rutgers University study that rigorously demonstrated that, even with very conservative assumptions, a high-quality hydrosol water extract is composed mostly of water from steam.

Sincerely yours,



Joseph E. Sandler
Counsel for Organic Consumers Association

cc:

Gay Timmons
QAI
Bayliss Ranch
Ray Green, Manager, California SOP

SANDLER, REIFF & YOUNG, P.C.

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March 9, 2004

Via Facsimile and First Class Mail (Fax: 408-762-4356)

Gay Timmons
Oh, Oh Organic
P.O. Box 472
Los Gatos, CA 95031

Dear Ms. Timmons:

This will respond to your letter of February 27, 2004, further addressing your role with the California State Organic Program, which role was referred to in the complaint filed by our client, the Organic Consumers Association, with the National Organic Program of the U.S. Department of Agriculture, on February 18, 2004.

As your letter points out, under section 46003 of the food and Agriculture Code, the California Organic Products Advisory Committee—of which you are a member—is specifically charged with advising the Secretary of the California Department of Food and Agriculture “with respect to his or her responsibilities under this act *and Article 7 (commencing with Section 110810) of Chapter 5 of part 5 of Division 104 of the Health and Safety Code.*” As you know, Article 7, Chapter 5, part 5 of the Health and Safety Code is the California Organic Products Act of 2003, which establishes and regulates the State Organic Program.

The very statute you cite, therefore, makes clear that as a member of COPAC, you are an advisor to the Secretary specifically with respect to the State Organic Program.

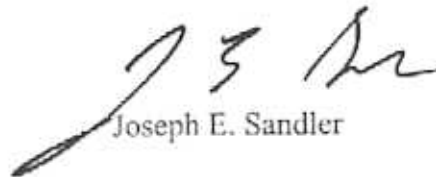
Indeed, as the attached flier shows, this past weekend, the SOP apparently held an update and briefing on the SOP which you co-presented together with Ray Green, Manager of the SOP, specifically regarding enforcement and organic producers’ responsibilities with respect to “food, cosmetics and other non-food items” in California.

Accordingly, we fail to understand why you continue to take issue with the statement that you are an advisor to the SOP. It would appear that the statement was absolutely accurate.

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If you have any further questions concerning the above or the OCA Complaint,
please contact us.

Sincerely yours,



Joseph E. Sandler

Update: California State Organic Program 2004

Join Ray Green, Manager California Organic Program
&

Gay Timmons, Oh, Oh Organic (2004 Chair of COPAC)

For an UPDATE and RESOURCES about
The California State Organic Program and
Your rights and responsibilities

As an organic producer of food, cosmetics and other non-food items.

ENFORCEMENT of the CALIFORNIA ORGANIC PRODUCTS ACT of 2004

Convention Center Room 303A ••• 1:30 p.m. to 3:30 p.m.
Saturday, March 6th, 2004

Joseph E. Sandler
Sandler, Reiff & Young, P.C.
50 E Street, S.E. # 300
Washington, D.C. 20003

Feb 27, 2004

Re: " 46003. (a) The secretary shall establish an advisory committee, which shall be known as the California Organic Products Advisory Committee, for the purpose of advising the secretary with respect to his or her responsibilities under this act and Article 7 (commencing with Section 110810) of Chapter 5 of Part 5 of Division 104 of the Health and Safety Code.


Dear Mr. Sandler;

Thank you for your response to my letter. I do not want to split hairs but you are referring to a role I fill that was created and defined by California law. As an individual and as a Californian, I feel that public forums, such as OCA's should be clear with consumers about the programs available to the organic community in their State. The COPAC (as defined above) offers a voice to Californians and a direct line to the Secretary of Agriculture of their State. The Secretary may then direct the California Organic Program or the SOP as he is allowed and as he sees fit.

So you can see that I still "take issue" with the statement that I am an "advisor" to the California SOP. I still want this corrected because it is an incorrect statement. The above is a quote copied and pasted directly from the California Organic Products Act of 2003. I believe it is clear in stating the function of the COPAC. I have worked on this group for at least five years and have always understood this as the directive from the California legislature. Again, I do not advise the SOP. Are you going to make this clear in a corrected complaint?

I hope to receive confirmation of a correction by March 5th.

Sincerely,



Gay Timmons
Oh, Oh Organic
408.356.6632 phone

Cc: R. Green - CDFA