USDA Agricultural Marketing Service

1400 Independence Ave. SW
Room 2648 - South, STOP 0268
Washington, D.C. 20250

Settlement Agreement

THIS SETTLEMENT AGREEMENT is entered into by the United States Department of Agriculture (USDA) Agricultural Marketing Service (AMS), and Brookville Farms.

USDA, AMS and Brookville Farms have decided to compromise and settle the issues among them related to alleged violations of the Organic Foods Production Act of 1990 (7 U.S.C. §§ 6501 et seq.) (OFPA) and the USDA organic regulations (7 CFR Section 205).

Accordingly, the parties agree to the following:

1. The Secretary of Agriculture has jurisdiction in this matter.

2. USDA, AMS agrees not to issue a formal Administrator's Decision charging Brookville Farms with alleged violations of the OFPA and the USDA organic regulations for any actions disclosed by the investigation which gave rise to this agreement.

3. Brookville Farms admits to the following:

   A. Accredited Certifying Agent New Jersey Department of Agriculture (NJDA) issued a September 16, 2014 Combined Notice of Noncompliance and Denial of Certification to Brookville Farms in Waretown, New Jersey. Brookville Farms appealed that Notice.

   B. On July 29, 2015, the National Organic Program (NOP) sent a "Appeal and Complaint Follow-up/Request for Information" to Brookville Farms, requesting that it respond to a complaint that had been submitted to NOP about Brookville Farm's representation of product as certified organic. No objective evidence has been received to refute the complaint; though Brookville Farms responded to the complaint in a phone call on July 31, 2015.

   C. Brookville Farms has been given the opportunity to consult with legal counsel regarding this Settlement, is executing this agreement of its own free will, and understands and accepts the terms of this Settlement. Brookville Farms understands that accepting the settlement is not acceptance, directly or indirectly, that Brookville is at fault of the noncompliances cited in NJDA's September 16, 2014 Combined Notice of Noncompliance and Denial of Certification. Brookville Farms also accepts no fault for the use of the USDA organic seal on farm signage, but agrees not to use that seal unless and until it is certified.

   D. No alteration or variation of the terms of this Settlement shall be valid unless made in writing and signed by both parties.

E. Brookville Farms withdraws its appeal and waives further appeal rights in this matter. Failure to comply with the settlement agreement shall automatically void paragraph 2 above. If Brookville Farms breaks the settlement terms, USDA, AMS may thereafter pursue an administrative hearing process.

4. Brookville Farms agrees to the following actions:

A. Brookville Farms agrees to pay a reduced civil penalty of $250.00 for having represented product as organic with the USDA organic seal without being certified. In the event that Brookville Farms is not able to pay the amount in full, installment payments may be arranged.

B. Brookville Farms agrees to discontinue representing product as "certified organic" until successfully certified as an organic operation. This includes discontinuing use of the USDA organic seal on farm signage and any applicable product labeling, as well as removing the "certified producers" language from farm signage.

a. Brookville Farms agrees not to use the phrase "certified organic" and agrees not to use the USDA organic seal when selling, labeling, or representing its products unless and until it achieves organic certification from a USDA-Accredited Certifying Agent.
b. Use of the USDA organic seal and "certified producers" on farm signage and any marketing materials, including electronic marketing (websites, Facebook, etc) must discontinue within two weeks of executing this settlement agreement.

C. Brookville Farms agrees it is free at any time to reapply to seek organic certification from any USDA-accredited certifying agent of its choosing. If Brookville Farms seeks organic certification in the future, it must start from the beginning of the certification process with a new application to a certifying agent.

This agreement will become effective upon the appellant's signature below.

(b) (6) [redacted]

Date: 9/28/15

Michelle Oconnor
Brookville Farms

Date: 10/2/15

Miles V. McEvoy
Deputy Administrator, National Organic Program
USDA, AMS