UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
BEFORE THE ADMINISTRATOR

In re: Hakan Organics DMCC Dubai, United Arab Emirates	)	**Administrator's Decision** **APL-007-18**

This Decision is in response to an appeal (APL-007-18) of a Notice of Proposed Revocation issued by the U.S. Department of Agriculture (USDA), Agricultural Marketing Service (AMS), National Organic Program (NOP) to Hakan Organics DMCC, located in Dubai, United Arab Emirates. The operation was deemed not in compliance with the Organic Foods Production Act of 1990 (OFPA)[1] and the USDA organic regulations.[2]

BACKGROUND

The Act authorizes the Secretary to accredit agents to certify crop, livestock, wild crop, and/or handling operations to the USDA organic regulations (7 C.F.R. Part 205). Certifying agents also initiate compliance actions to enforce program requirements, as described in §205.662. The Act authorizes the NOP to enforce the USDA organic regulations. Persons subject to the Act who believe they are adversely affected by a noncompliance decision, such as a Combined Notice of Noncompliance and Proposed Revocation, may appeal such decision to the AMS Administrator pursuant to §205.680 of the USDA organic regulations.

[1] 7 U.S.C. 6501-6522
[2] 7 C.F.R. Part 205

FINDINGS OF FACT

1. Hakan Organics DMCC is a certified organic operation located in Dubai, United Arab Emirates, and is a subsidiary of Hakan Agro DMCC. Kiwa BCS Oko Garantie GmbH (Kiwa BCS), certified Hakan Organics DMCC as an organic handler in October 2015 [Exhibit 1].
2. On April 28, 2017, the NOP issued Hakan Organics DMCC a Combined Notice of Noncompliance and Proposed Revocation. This proposed revocation was issued because Hakan Organics, through its agents, represented non-organic, fumigated soybeans as organic for sale in the United States [Exhibit 2].
3. On July 5, 2017, the Administrator rendered a decision, denying the appeal and upholding the proposed revocation [Exhibit 3]. Hakan Organics DMCC subsequently requested a hearing before an Administrative Law Judge; this proceeding is pending [Exhibit 4].
4. On October 5, 2017, the NOP issued Hakan Organics DMCC a Notice of Proposed Revocation for three separate and additional shipments of non-organic, fumigated soybeans and non-organic corn [Exhibit 5].
5. On November 6, 2017, Hakan Organics DMCC appealed the Notice; the appeal was accepted and was acknowledged on November 8, 2017 [Exhibit 6].
6. Hakan Organics DMCC is a responsible party for the various transactions discussed below as the purchase of the corn and soybeans and their ultimate sale to organic entities in the U.S., as well as all steps in-between, were conducted by, and/or for the benefit of Hakan Organics DMCC.

DISCUSSION

The NOP issued Hakan Organics DMCC (hereafter, Hakan Organics) a Notice of Proposed Revocation. The Proposed Revocation was issued because Hakan Organics, on its own behalf and on behalf of its parent company Hakan Agro DMCC, and through its agents, represented fumigated, non-organic soybeans and non-organic corn as organic for sale in the United States. These corn and soybean shipments were managed by Hakan Organics, and four related entities: Rus Agro Export Ltd. (Rus Agro), Aram Foods Tarim Gida Ins Pet Nak San Ve Tic Ltd (Aram Foods), Beyaz Agro Ithalat Ihracat San. Ve TIC.A.S. (Beyaz Agro), and Agropex International, Inc. (Agropex).

Hakan Organics states in its appeal that it is a subsidiary of Hakan Agro DMCC which through its subsidiaries handles the distribution of both conventional and organic agricultural products [Exhibit 6]. Hakan Organics and its parent company Hakan Agro DMCC have the same physical address in Dubai, United Arab Emirates [Exhibit 7]. The involvement of Hakan Organics in the transactions that represented the soybeans treated with prohibited substances, and corn as organic is proven in various documents showing the relationships between Hakan Organics and the four entities named above.

First, Hakan Organics acknowledges that it partnered with Goksal Beyaz to open satellite operations in Turkey and granted Mr. Beyaz authority to take certain actions on its behalf. The appeal also noted that Mr. Beyaz was authorized to establish e-mail accounts under the hakanfoods domain name for use by the Turkish operation. The delegation of these permissions is evidence that Hakan Organics understood that people with hakanfoods email addresses would be representing Hakan Organics beyond Mr. Beyaz [Exhibit 6].

Second, the Inspection Report of certifier Kiwa BCS on the June 2017 inspection of Beyaz Agro shows the owner of Beyaz Agro as Goksal Beyaz, and states that Beyaz Agro and Hakan Organics use the same warehouses and share one office utilizing the same staff which manages both companies. The Special Audit Report of June 30, 2017 states that, "Until May 2017 the Team of Beyaz Agro was mandated to manage and execute the business for Hakan Organic." [Exhibits 8 and 9]

Third, as additional evidence of the connection between these businesses, in early 2017, Hakan Organics and Beyaz Agro shared an exhibition booth at the Biofach World Organic Trade Fair in Nuremberg, Germany [Exhibit 10]. Booth staff provided two business cards for Goksal Beyaz; one card was labeled Goksal Beyaz, Chairman, Beyaz Agro; the other was labeled Goksal Beyaz, General Coordinator, Hakan Organics [Exhibit 11].

Fourth, in this investigation, the NOP also obtained a copy of the Hakan Organics Customer Complaint Evaluation Procedure dated July 12, 2014. Goksal Beyaz signed this document under the headings "Controlled by" and "Approved by." [Exhibit 12].

Fifth, regarding the relationship between Hakan Organics and Rus Agro, Hakan Organics states in its appeal that Rus Agro sells its organic products exclusively to them, while selling conventional products to their parent company Hakan Agro DMCC and other entities [Exhibit 6].

Sixth, a contract between certifier Control Union and Rus Agro was signed on September 23, 2016 by Goksal Beyaz as legal representative and manager of Rus Agro [Exhibit 13]

Seventh, the Organic Integrity database lists Goksal Beyaz, with the email address of goksal.beyaz@hakanfoods.com, as the contact for Rus Agro [Exhibit 14].

Eighth, Rus Agro's 2015 Organic Handling System Plan lists Erdal Binay as a contact with an email address of erdal.binay@hakanfoods.com, as well as listing Ibrahim Koyuncu as a contact [Exhibit 15].

Ninth, Rus Agro's 2015 Organic Production System Plan lists Erdal Binay and Ibrahim Koyuncu as contacts, but also lists Goksal Beyaz as the Director of Rus Agro [Exhibit 16].

Tenth, both certifier bio.inspecta's 2015 Processing Inspection Report and 2015 Production Inspection Report for Rus Agro show Ibrahim Koyuncu as Rus Agro's Project Manager [Exhibits 17 and 18], but Ibrahim Koyuncu lists his occupation as Project Manager for Beyaz Agro on his Linked In account [Exhibit 19].

Eleventh, as to Aram Foods, the 2016 Organic System Plan of Aram Foods lists Hakan Organics and Beyaz Agro as their suppliers of soybeans [Exhibit 20].

Twelfth, during a site visit to Agropex in March 2017, NOP personnel obtained copies of invoices from Agropex to Global Natural which provided the address for Agropex as, "34th Floor, BB2 Tower, Mazaya Business Avenue, Jumeirah Lake Towers, Dubai with the e-mail as dubai@hakanfoods.com [Exhibit 21]. This is the street address of Hakan Organics.

Finally, during NOP's investigation, staff interviewed a representative of Global Natural, a party receiving products from these transactions. This representative provided a contract titled "Trade Agency Agreement" between Hakan Organics and Global Natural, which stated that the parties agreed to enter into business on a sales agency basis [Exhibit 22]. The agreement, which states the grain to be sold is owned by Hakan Agro DMCC, the parent company, was signed by Goksal Beyaz as the General Coordinator for Hakan Organics DMCC. The Global Natural representative stated that Global Natural's contract is with Hakan Organics; that all sales were reported to Beyaz Agro in Gaziantep, Turkey; and that Goksal Beyaz, Hakan's General

Coordinator, signed his contract with Hakan. The representative stated that, "To my knowledge, Hakan Agro DMCC (the parent company) and Beyaz Agro are effectively the same organization, specifically Goksal Beyaz works for Hakan, and Beyaz Agro is a functional part of the Hakan organization." [Exhibit 23]. It is apparent that the Global Natural representative also refers to Hakan Organics and its parent company Hakan Agro DMCC interchangeably. In addition, Article 14 of the Trade Agency Agreement states that all notices must be sent to Hakan Organics at the Beyaz Agro address. As further evidence of this connection, Global Natural provided a banking record from February, 2017, documenting the wire transfer of $107,603 directly from Hakan Agro DMCC to Global Natural LLC [Exhibit 24].

The investigation that led to the Proposed Revocation relates to three shipments totaling 17,669 metric tons of soybeans and 21,000 metric tons of corn, which arrived in the United States aboard three different vessels: (1) 218.40 metric tons of soybeans onboard the vessel E.R. Long Beach in January 2017; (2) 5,900.75 metric tons of soybeans and 21,000 metric tons of corn onboard M/V Crinis in February 2017; and (3) 11,550 metric tons of soybeans onboard the M/V Daiwan Fortune in March 2017 [Exhibit 25]. The soybeans had been previously exported from Ukraine to Turkey and were then re-exported from Turkey to the United States. Before leaving Ukraine, the soybeans were fumigated with aluminum phosphide, a prohibited substance under the USDA organic regulations. The corn had been previously exported from Romania to Turkey and was then re-exported from Turkey to the United States. The NOP investigation revealed that Hakan Organics and its agent, Goksal Beyaz, who serves as the General Coordinator for Hakan Organics and who acted on its behalf, violated the OFPA by knowingly representing and selling the fumigated soybeans and corn as organic.

The Proposed Revocation cited four specific violations. The first was a violation of the USDA organic regulations at §205.272 (Commingling and contact with prohibited substance prevention practice standard). Between April and December, 2016, Hakan Organics obtained transaction certificates and imported soybeans in bulk into Turkey from various exporters in Ukraine, as demonstrated in fourteen Ukrainian phytosanitary certificates [Exhibit 26]. These certificates show that the fourteen shipments of soybeans were fumigated with aluminum phosphide, a prohibited substance under the USDA organic regulations. Hakan Organics DMCC was identified on the phytosanitary certificates as the consignee in Turkey, and therefore is a responsible, notified party. The soybeans in bulk from the multiple shipments were consolidated under four phytosanitary certificates issued by Turkish authorities for re-export to the United States aboard three different vessels: three shipments were consolidated into one phytosanitary certificate for shipment on E.R. Long Beach [Exhibit 27]; five shipments were consolidated into one phytosanitary certificate for shipment on M/V Crinis [Exhibit 28]; six shipments were consolidated into two phytosanitary certificates for shipment on M/V Daiwan Fortune [Exhibit 29].

In May 2016, Hakan Organic, representing Rus Agro, obtained transaction certificates for corn from Romania and imported this into Turkey as demonstrated by two phytosanitary certificates issued by the Romanian Ministry of Agriculture [Exhibit 30]. The Romanian Ministry of Agriculture and Rural Development stated that the handlers of the corn in Romania were not certified organic [Exhibit 31]. In January 2017, Hakan sold the corn to Aram Foods which obtained four transaction certificates identifying the corn as organic [Exhibit 32]. The four Turkish phytosanitary certificates [Exhibit 33] that correspond to these transaction certificates,

and the shipments loaded onto M/V Crinis for export to the United States, trace to the phytosanitary certificates issued by the Romanian Ministry of Agriculture.

The second violation cited the OFPA §6519(c)(2) (Recordkeeping, investigations, and enforcement). In applying for organic transaction certificates, Hakan Organics acted through its agents Rus Agro, Aram Foods and Beyaz Agro to present fraudulent information to a USDA-accredited organic certifying agent.[3] On April 4 and April 23, 2016, Mustafa Cakiroglu, Import Export Operations Manager of Hakan Organics DMCC, presented incomplete and false information to the organic certifying agent of Rus Agro, bio.inspecta, to obtain an organic transaction certificate for fumigated soybeans to be shipped on E.R. Long Beach [Exhibits 34-35]. The information presented by Hakan Organics showed an organic farmer in Russia as the source of the soybeans [Exhibit 36]. Turkish phytosanitary certificates for loads on the E.R. Long Beach contradict the information that Hakan Organics provided to the certifying agent, specifically the source of the soybeans and fumigation status.

On May 10, 2016 Mustafa Cakiroglu presented information to the certifier bio.inpsecta [Exhibit 37] showing the purchase of bulk organic corn from an operation in Russia [Exhibit 38]. Aram Foods subsequently presented false information to the certifying agent, Control Union, to obtain organic certificates for shipments of corn on the M/V Crinis. Turkish phytosanitary certificates for loads on the M/V Crinis contradict the information that Hakan Organics and Aram Foods provided to certifying agents regarding the source of the corn and fumigation status.

[3] The certifying agent, Control Union, suspended Aram Foods on July 12, 2017. The reason for the suspension was the failure to provide information related to "errors" during customs procedures that impacts traceability of the products.
On June 1, 2017, the NOP revoked Beyaz Agro's certification for knowing and willful violations of the USDA organic regulations.

The third violation in the Notice cited the USDA organic regulations at §205.100(c)(1) (What has to be certified) and §205.105(a) (Allowed and prohibited substances, methods, and ingredients in organic production and handling). Aram Foods sold the non-organic, fumigated soybeans from the M/V Crinis and M/V Daiwan Fortune and the non-organic corn from the M/V Crinis through Hakan Organics affiliate Agropex, to Global Natural, LLC [Exhibits 39 – 44]. Beyaz Agro sold the non-organic, fumigated soybeans from the vessel E.R. Long Beach through Agropex to Global Natural [Exhibits 45-46]. Subsequently, Global Natural, on behalf of Hakan Organics, Goksal Beyaz, Beyaz Agro, Aram Foods, and Agropex, arranged for the sale of the non-organic soybeans to certified organic handlers in the United States [Exhibit 47].

The fourth violation in the Notice cited the USDA organic regulations § 205.400(a) (General Requirements for Certification). Hakan Organics knowingly and willfully worked through its four subsidiaries to sell three large-scale shipments of non-organic, fumigated soybeans and non-organic corn as organic in the United States. Hakan Organics, through Rus Agro and Aram Foods, and submitted false documentation to certifying agents, bio.inspecta, Kiwa BCS and Control Union, which misrepresented the source and organic status of soybeans and corn. Hakan Organics, acting through its agents, Aram Foods and Agropex and Global Natural, shipped and sold nonorganic soybeans and nonorganic corn as organic to handlers in the United States [Exhibits 31 and 48].

In its appeal, Hakan Organics DMCC argues that the violations cited by the NOP were perpetrated by persons and companies connected with Goksal Beyaz, and his company, Beyaz Agro that acted independently from Hakan Organics. The appeal states that Hakan Organics has no relationship with or control over Goksal Beyaz or any of the entities which were identified as agents of Hakan Organics in the Notice of Proposed Revocation, specifically, Rus Agro, Aram

Foods, Beyaz Agro and Agropex. The appeal also states that Goksal Beyaz admitted to Hakan Organics that Mr. Beyaz's employees were responsible for the violations implicating Hakan Organics. The appeal notes that many allegations in the Proposed Revocation refer to specific actions taken by Beyaz Agro, not directly by Hakan Organics.

Hakan Organics acknowledges that in February 2014, it entered into an agreement with Goksal Beyaz, a Turkish citizen, to open a Hakan Organics satellite operation in Turkey [Exhibit 6]. Hakan Organics' appeal notes that the "agreement with Mr. Beyaz entrusted him to execute certain transactions on behalf of Hakan Organics in Turkey." The Hakan Organics appeal states, "Unfortunately, as evidenced by the allegations in the Notice and findings made during Hakan Organics' internal investigation into those allegations, that trust was grossly misplaced. On April 28, 2017, immediately upon learning of the misconduct alleged in the Notice, Hakan Organics terminated its relationship with Mr. Beyaz."

Hakan Organics also stated that it lacks knowledge about allegations in the Notice of Proposed Revocation concerning soybean shipments on the E.R. Long Beach and M/V Daiwan Fortune because Beyaz Agro and Aram Foods, respectively, not Hakan Organics, were involved in the transactions. Hakan Organics also claims that it found anomalies in the record for cargo sold to Aram Foods that was later shipped on the M/V Crinis and told Agropex, which received shipment from Aram Foods, and the certifying agent Kiwa BCS [Exhibit 49].

Hakan Organics responds to the specific violations in the Proposed Revocation as follows. First, Hakan Organics stated that Beyaz Agro and Aram Foods not Hakan Organics, were the entities that sold non-organic corn and soybeans as organic and were not agents of Hakan Organics.

Second, Hakan Organics denies that neither Beyaz Agro, Rus Agro nor Aram Foods were agents for Hakan or were authorized to commit the alleged actions.

Third, Hakan Organics states that it is not an affiliate of Agropex and was not responsible for transactions initiated by Agropex.

Finally, Hakan Organics asserts that neither Beyaz Agro, Rus Agro, Aram Foods nor Agropex are subsidiaries of Hakan Organics and it did not work through them to conduct transactions. Hakan Organics closes its appeal by stating it has reviewed its internal controls and external partners to ensure that Hakan Organics and all individuals it works with comply with all applicable laws. The appeal concludes with the statement that Hakan Organics will not conduct business with Mr. Beyaz or Beyaz Agro again, and pleads that the Administrator, "recognize the distinction, and, despite the unfortunate and now terminated relationship with Mr. Beyaz, that USDA cannot and should not revoke Hakan Organics' organic certification on account of Beyaz Agro's misconduct."

In response to the appeal, AMS notes thirteen key points, discussed above, that substantiate the relationships between Hakan Organics and Beyaz Agro, Rus Agro, Aram Foods, and Agropex, and hence, Hakan Organics' involvement in the transactions that represented the soybeans treated with prohibited substances, and corn as organic. This information contradicts Hakan Organics' assertions that Beyaz Agro, Rus Agro, Aram Foods and Agropex act independently of Hakan Organics.

The purchase of the soybeans from the Ukraine and the corn from Romania by an agent of Hakan Organics, and their movement to Hakan Organics in Turkey and through the related entities of Hakan Organics to the United States, to ultimately be sold to various organic entities, can be seen in a Flow Chart of Relationships and Transactions. Hakan Organics was involved in

the transactions from the first step to the last, and every step of the transactions in-between [Exhibit 50].

Further, it is noted that Hakan Organics, submitted to the certifying agent, bio.inspecta, an organic system plan that identified a certified organic operation in Russia (OOO-MTC-YERSHOVSKAYA). Purchase slips and commercial invoices show the purchase and sale of the soybeans from this source as organic [Exhibit 36]. However, this operation did not appear in the organic INTEGRITY database and phytosanitary certificates showed a different source for the soybeans [Exhibit 26]. Hakan Organics employees also provided false information to a certifying agent to obtain organic transaction certificates for export to Turkey. That information enabled Rus Agro, Hakan Agro/Hakan Organics and Beyaz Agro to acquire additional organic transaction certificates for corn and soybeans from Control Union and Kiwa BCS based on false premises. Further, Hakan Organics was the importer in Turkey for soybean shipments that were re-exported to the United States onboard the M/V Crinis and M/V Daiwan Fortune. Therefore, Hakan was directly involved in the falsification of documents that enabled the misrepresentation of nonorganic products as organic throughout the supply chain.

CONCLUSION

The evidence indicates that the NOP's October 5, 2017, Notice of Proposed Revocation to Hakan Organics DMCC was appropriate due to the nature of the violations.

DECISION

The appeal is denied. Hakan Organics DMCC's organic certification is to be revoked. Attached to this formal Administrator's Decision is a Request for Hearing form. Hakan Organics has thirty (30) days to request an administrative hearing before an Administrative Law Judge. If Hakan Organics does not request a hearing in that period, this Decision will be implemented and the NOP will revoke Hakan Organics DMCC's organic certification. In accordance with §205.662(f)(2) of the USDA organic regulations, "A certified operation or a person responsibly connected with an operation whose certification has been revoked will be ineligible to receive certification for a period of 5 years following the date of such revocation."

Done at Washington, D.C., on this 2nd day of July, 2018.

Bruce Summers

Administrator