

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS**

<b>BRUCE CIAPESSONI, et al.,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>No. 15-938C</b>
	)	<b>(Judge Thomas Wheeler)</b>
<b>THE UNITED STATES,</b>	)	
	)	
<b>Defendant.</b>	)	

**DEFENDANT’S ANSWER TO CLASS-ACTION COMPLAINT**

For its answer to plaintiffs’ complaint, defendant admits, denies and alleges as follows:

**CLASS-ACTION COMPLAINT**

The allegations contained in the first sentence of plaintiff’s preliminary statement are plaintiff’s characterization of this action to which no response is required; to the extent they may be deemed allegations of fact, they are denied.

**NATURE OF THE ACTION**

1. The allegations contained in paragraph 1 are conclusions of law and plaintiff’s characterization of this action to which no response is required; to the extent they may be deemed allegations of fact, they are denied.

**JURISDICTION AND VENUE**

2. The allegations contained in paragraph 2 are conclusions of law to which no response is required; to the extent that they may be deemed allegations of fact, they are denied.

## **PARTIES**

3. Denies the allegations contained in paragraph 3 for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

4. Denies the allegations contained in paragraph 4 for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

5. Denies the allegations contained in paragraph 5 for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

6. Denies the allegations contained in paragraph 6 for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

7. Denies the allegations contained in paragraph 7 for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

8. Denies the allegations contained in paragraph 8 for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

9. Denies the allegations contained in paragraph 9 for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

10. Denies the allegations contained in paragraph 10 for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

11. Admits.

## **BACKGROUND**

### **The Agricultural Marketing Agreement Act**

12. The allegations contained in paragraph 12 are conclusions of law to which no response is required; to the extent that they may be deemed allegations of fact, they are denied.

13. The allegations contained in paragraph 13 are conclusions of law to which no response is required. Admits the allegations contained in the first sentence of paragraph 13 to the extent supported by the statute cited in the first sentence of paragraph 13, which is the best evidence of its contents; otherwise denies the allegations contained in the first sentence of paragraph 13. Admits the allegations contained in second sentence of paragraph 13 to the extent supported by the statute cited in the second sentence of paragraph 13, which is the best evidence of its contents; otherwise denies the allegations contained in the second sentence of paragraph 13.

#### **The California Raisin Industry**

14. Denies the allegations contained in paragraph 14 for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

15. Denies the allegations contained in paragraph 15 for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

16. Admits the allegations contained in the first sentence of paragraph 16. Denies the allegations contained in the second sentence of paragraph 16 that the handlers “resell” the processed raisins; admits the allegations contained in the second sentence of paragraph 16 that handlers sell the processed raisins in commercial markets. Denies the allegations contained in the third sentence of paragraph 16 for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

#### **The California Raisin Handling Order**

17. The allegations contained in paragraph 17 are conclusions of law to which no response is required; to the extent that they may be deemed allegations of fact, they are denied. Admits the allegations contained in the first sentence of paragraph 17 to the

extent supported by the Federal Register and Code of Federal Regulations cited in the first sentence of paragraph 17, which are the best evidence of their contents; otherwise denies the allegations contained in the first sentence of paragraph 17. Denies the allegations contained in the second and third sentences of paragraph 17.

18. Admits the allegations contained in the first sentence of paragraph 18 to the extent supported by the Code of Federal Regulations cited in the first sentence of paragraph 18, which is the best evidence of its contents; otherwise denies the allegations contained in the first sentence of paragraph 18. Admits the allegations contained in the second sentence of paragraph 18 to the extent supported by the Code of Federal Regulations cited in the second sentence of paragraph 18, which is the best evidence of its contents; otherwise denies the allegations contained in the second sentence of paragraph 18.

19. Admits the allegations contained in paragraph 19 to the extent supported by the Code of Federal Regulations cited in paragraph 19, which is the best evidence of its contents; otherwise denies the allegations contained in paragraph 19.

20. Admits the allegations contained in paragraph 20 that, in most cases, handlers pay growers for the free-tonnage raisins but not for the reserve-tonnage raisins delivered by growers; denies any implication that all handlers pay growers for the free-tonnage raisins but not for the reserve-tonnage raisins delivered by growers.

21. The allegations contained in paragraph 21 are conclusions of law to which no response is required; to the extent that they may be deemed allegations of fact, they are denied. Admits the allegations contained in the first and second sentences of paragraph 21 to the extent supported by the Code of Federal Regulations cited in the first

sentence of paragraph 21, which is the best evidence of its contents; otherwise denies the allegations contained in the first and second sentences of paragraph 21. Admits the allegations contained in the third sentence of paragraph 21 to the extent supported by the Code of Federal Regulations cited in the third sentence of paragraph 21, which is the best evidence of its contents; otherwise denies the allegations contained in the third sentence of paragraph 21.

22. The allegations contained in the first sentence of paragraph 22 are conclusions of law to which no response is required; to the extent that they may be deemed allegations of fact, they are denied. Admits the allegations contained in the second sentence of paragraph 22 to the extent supported by the decision, *Horne v. Dep't of Agriculture*, 135 S. Ct. 2419 (2015), and the Code of Federal Regulations cited in the second sentence of paragraph 22, which are the best evidence of their contents; otherwise denies the allegations contained in the second sentence of paragraph 22.

23. Denies the allegations contained in the first sentence of paragraph 23 for lack of knowledge or information sufficient to form a belief as to their truth of the matters asserted. Admits the allegations contained in the second sentence of paragraph 23 to the extent supported by the Code of Federal Regulations, which is the best evidence of its contents; otherwise denies the allegations contained in the second sentence of paragraph 23.

24. Admits the allegations contained in the first sentence of paragraph 24 that, for crop year 2008-09, the final reserve percentages were announced in the Federal Register on August 28, 2009, and went into effect on September 28, 2009; denies any implication that the allegations contained in the first sentence of paragraph 24 that this

was the first time a reserve percentage was announced for the 2008-09 crop year. Defendant avers that, for crop year 2008-09, the Raisin Administrative Committee (RAC) computed and announced a preliminary reserve percentage in October 2008, and, pursuant to regulations, required the preliminary reserve-tonnage raisins to be turned over shortly thereafter, and that, in December 2008, the RAC announced the interim reserve percentage and recommended the final reserve percentage. Admits the allegations contained in the second sentence of paragraph 24 that the final reserve percentage that went into effect was 13 percent; the remainder of the allegations contained in the second sentence of paragraph 24 are conclusions of law to which no response is required.

25. Admits the allegations contained in the first sentence of paragraph 25 that growers delivered 364,268 tons of natural seedless raisins during the 2008-09 crop year; denies the remainder of the allegations contained in the first sentence of paragraph 25 for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted. Denies the allegations contained in the second sentence of paragraph 25 for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted. The allegations contained in the third sentence of paragraph 25 that the handlers did not pay growers for the reserve tonnage raisins pursuant to the California Raisin Handling Order is a conclusion of law to which no response is required; denies the remainder of the allegations contained in the third sentence of paragraph 25 for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

26. Denies the allegations contained in paragraph 26 that the market price of natural seedless raisins for the 2008-09 crop year was \$1,310 per ton for lack of

knowledge or information sufficient to form a belief as to the truth of the matters asserted; admits the remainder of the allegations contained in paragraph 26.

27. The allegations contained in the first sentence of paragraph 27 concerning “when the [RAC] took title to [the raisins]” are conclusions of law to which no response is required; admits the allegations contained in the first sentence of paragraph 27 that, in crop year 2008-09, the RAC did not pay growers for reserve-tonnage raisins when they were delivered to handlers and separated from free-tonnage raisins to be held for the account of the RAC; denies the remainder of the allegations contained in the first sentence of paragraph 27. Admits the allegations contained in the second sentence of paragraph 27 that, in crop year 2008-09, no cash distribution was given to growers for their reserve-pool raisins; denies the remainder of the allegations contained in the second sentence of paragraph 27.

#### **Plaintiffs’ Operations**

28. Denies the allegations contained in paragraph 28 for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

29. Denies the allegations contained in paragraph 29 for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

#### ***Horne v. Department of Agriculture***

30. Admits the allegations contained in the first sentence of paragraph 30 to the extent supported by the Supreme Court’s decision in *Horne* cited in the first sentence of paragraph 30, which is the best evidence of its contents; otherwise denies the allegations contained in the first sentence of paragraph 30. Denies the allegations contained in the second sentence of paragraph 30.

31. The allegations contained in paragraph 31 are conclusions of law and plaintiff's characterization of this action to which no response is required; to the extent they may be deemed allegations of fact, they are denied.

**CLASS-ACTION ALLEGATIONS**

32. The allegations contained in paragraph 32 are plaintiffs' characterization of this action to which no response is required; to the extent they may be deemed allegations of fact, they are denied.

33. Denies the allegations contained in paragraph 33 for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

34. Denies the allegations contained in the first sentence of paragraph 34 for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted. The remainder of the allegations contained in paragraph 34 are conclusions of law and plaintiffs' characterization of this action to which no response is required; to the extent they may be deemed allegations of fact, they are denied.

35. Denies the allegations contained in paragraph 35 for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

36. Denies the allegations contained in paragraph 36 for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

37. The allegations contained in paragraph 37 are conclusions of law and plaintiff's characterization of this action to which no response is required; to the extent they may be deemed allegations of fact, they are denied.

38. The allegations contained in paragraph 38 are conclusions of law and plaintiff's characterization of this action to which no response is required; to the extent they may be deemed allegations of fact, they are denied.

39. The allegations contained in paragraph 39 are conclusions of law to which no response is required; to the extent they may be deemed allegations of fact, they are denied.

## COUNT I

### **Just Compensation for Taking of Private Property (U.S. Const. amend. V)**

40. Defendant re-alleges and incorporates by reference its responses to paragraphs 12 through 31 of plaintiff's complaint.

41. The allegations contained in paragraph 41 are conclusions of law to which no response is required; to the extent they may be deemed allegations of fact, they are denied for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

42. The allegations contained in paragraph 42 are conclusions of law to which no response is required; to the extent they may be deemed allegations of fact, they are denied.

43. The allegations contained in paragraph 43 are conclusions of law to which no response is required; to the extent they may be deemed allegations of fact, they are denied.

44. The allegations contained in paragraph 44 are conclusions of law to which no response is required; to the extent they may be deemed allegations of fact, they are denied.

45. The allegations contained in paragraph 45 are conclusions of law to which no response is required; to the extent they may be deemed allegations of fact, they are denied.

46. Denies the allegations contained in paragraph 46 that the reserve program provided growers no compensation; denies the remainder of the allegations contained in paragraph 46 for lack of knowledge or information sufficient to form a belief as to the truth of the matters asserted.

47. Denies.

48. Denies.

49. Denies each and every allegation not previously admitted or otherwise qualified.

#### **PRAYER FOR RELIEF**

50. Denies that plaintiffs are entitled to the relief set forth in the prayer for relief immediately following paragraph 48, or to any relief whatsoever.

#### **AFFIRMATIVE DEFENSE**

51. Plaintiffs' Fifth Amendment takings claims for reserve-tonnage raisins allegedly taken from raisin growers by the United States Department of Agriculture for crop years 2002-03, 2003-04, 2005-06, 2007-08, and 2008-09 are barred by the six-year statute of limitations. 28 U.S.C. § 2501.

52. Plaintiffs' complaint fails to state a claim upon which relief can be granted.

WHEREFORE, defendant requests that the Court enter judgment in its favor, order that the complaint be dismissed, and grant defendant such other and further relief as the Court may deem just and proper.

**Respectfully submitted,**

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