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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

SACRAMENTO DIVISION

SUNRISE FOODS INTERNATIONAL INC., a Canadian corporation, Plaintiff, vs. SONNY PERDUE, Secretary of the U.S. Department of Agriculture; U.S. Department of Agriculture; KEVIN SHEA, Administrator of the U.S. Department of Agriculture's Animal and Plant Health Inspection Service; U.S. Department of Agriculture Animal and Plant Health Inspection Service; KEVIN K. MCALEENAN, Commissioner of U.S. Customs and Border Protection; U.S. Customs and Border Protection, Defendants.	Case No.: 2:18-cv-00688-JAM-EFB Assigned to Judge John A. Mendez **DECLARATION OF VINCE FARHAT IN SUPPORT OF** **PLAINTIFF'S *EX PARTE* MOTION FOR:** **(1) TEMPORARY RESTRAINING ORDER;** **(2) ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION; AND** **(3) EXPEDITED DISCOVERY** [L.R. 231]

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DECLARATION OF VINCE FARHAT

I, Vince Farhat, declare as follows:

1. I am over the age of 18 and have personal knowledge of the matters stated herein. I am an attorney at law, duly admitted to practice before this Court. I am a partner in the Los Angeles office of Holland & Knight LLP and am one of the attorneys for Plaintiff SUNRISE FOODS INTERNATIONAL, INC. ("Plaintiff" or "Sunrise") in this action. I have personal knowledge of the facts set forth below, and if called and sworn as a witness, I could and would testify competently thereto. I make this declaration in support of Sunrise's *Ex Parte* Motion for a Temporary Restraining Order, Order to Show Cause re: Preliminary Injunction, and Expedited Discovery, as filed in this action on March 29, 2018.

2. On April 5, 2018, I participated in a conference call with Daniel Halainen, Trial Attorney for the U.S. Department of Justice Civil Division Programs Branch, who is representing Defendants in this action. I provided Mr. Halainen with notice that Sunrise was prepared to file an *Ex Parte* Motion for a temporary restraining order ("TRO") and for a preliminary injunction enjoining Defendants from enforcing certain Emergency Action Notifications ("EANs") issued to Sunrise until the Court can rule on Defendants' decision to revoke Sunrise's clearance. I advised him of the factual and legal basis of the motion, and described generally the supporting documents that would be filed. I further advised him that Sunrise specifically would be seeking (1) a TRO pending the Court's resolution of Defendants' unlawful decision to rescind clearance by issuing the EANs; (2) an Order to show cause regarding preliminary injunction; and (3) an Order allowing expedited discovery to ascertain the true facts related to Defendants' decision revoking clearance of the Mountpark Shipments. I explained that the TRO relief sought would be to reinstitute the "last uncontested status" preceding the controversy, *i.e.*, the clearance of the Mountpark Shipments. We also discussed a potential alternative to a TRO.

3. At the end of the call, we agreed to a follow-up conference call the next day, April 6, 2018, at 5 p.m. EST/2 p.m. PST to give Mr. Halainen an opportunity to confer with his clients.

4. On April 6, 2018, I participated in the scheduled follow-up call with Mr. Halainen at 5 p.m. EST/2 p.m. PST. Mr. Halainen advised that Defendants will oppose Sunrise's *Ex Parte*

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Motion. I advised Mr. Halainen that we would be filing the TRO papers, that we would serve him by email (to which he agreed), and that we would advise him once the Court sets a specific time and location of the hearing.

5. The motion could not have been brought earlier. Sunrise actively attempted to resolve this dispute with Defendants without the need for this action, as described in the concurrently filed declarations of Jacob Neufeld, Michael Corbett, and Ron Olyenik. The complaint was filed on March 29, 2018, approximately ten days after Sunrise was advised that Defendants' agency decision was final. During that ten day period, Sunrise continued to attempt to reach resolution through my colleague Ron Oleynik, as described in his declaration, and other colleagues in my firm's Washington, D.C. office. Mr. Halainen contacted my firm as counsel for Defendants shortly after the complaint was filed, and we immediately set up a call at his earliest convenience, as described above in paragraphs 2-4.

6. Attached to Plaintiff's Request for Judicial Notice ("RJN") as **RJN No. 1** is a true and correct copy of the APHIS manual *Seeds Not for Planting*, available on APHIS's website at https://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/seeds_not_for_planting.pdf (last accessed on April 6, 2018).

7. Attached to Plaintiff's RJN as **RJN No. 2** is a true and correct copy of the APHIS manual *Miscellaneous and Processed Products Import Manual*, available on APHIS's website at https://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/miscellaneous.pdf (last accessed on April 6, 2018).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 6th day of April 2018 in Los Angeles, California.

/s/ Vince Farhat
Vince Farhat