

Exhibit C

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6 Attorney for Plaintiff

7 **UNITED STATES DISTRICT COURT**
8 **FOR THE DISTRICT OF COLUMBIA**

9 **ORGANIC TRADE ASSOCIATION,**

10 **Plaintiff,**

11 **v.**

12 **SONNY PERDUE, *et al.*,**

13 **Defendants.**

Civil Case No.

**DECLARATION OF
KYLA SMITH, ACCREDITED
CERTIFIER'S ASSOCIATION in
support of PLAINTIFF'S
COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

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17 Pursuant to 28 U.S.C. § 1746 I, Kyla Smith declare:

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1. I am the Board of Directors Chair of the Accredited Certifiers Association. This statement is based on my personal knowledge and upon information and belief.
 2. The Accredited Certifiers Association, Inc. ("ACA") is a 501(c)(3) non-profit educational organization created to benefit the accredited organic certifier community and the organic industry. Our membership includes 53 accredited certification agencies.
 3. Each of our members undergoes a rigorous accreditation review by the USDA that establishes each member's expertise and competence in the area of organic standards and certification systems. The federal accreditation requirements are set forth in 7 C.F.R. Part 205, Subpart F "Accreditation of Certifying Agents."

- 1 4. ACA’s primary mission is to ensure the integrity and consistency of organic certification
2 in the United States. Specific purposes include, developing uniform criteria for
3 implementation of the USDA National Organic Program, certifier training, support and
4 being a forum for discussion of issues impacting organic certification.
- 5 5. Our members are the front-line decision makers for implementation and application of
6 organic production and handling standards across the entirety of the supply chain – from
7 production to retail sale. We also address many questions from the purchasers of
8 certified organic products throughout the supply chain, all the way to retail consumers.
- 9 6. Our members receive direct feedback from producers and handlers and purchasers of
10 organic products.
- 11 7. Our association and its members believe that producers, handlers and consumers trust the
12 USDA organic seal as an assurance of product identity in principal part because of
13 consistent application of the organic requirements by accredited certifying agents in the
14 field.
- 15 8. Our association, and its members frequently present expert opinion testimony at public
16 meetings conducted by the National Organic Standards Board. (“NOSB”).
- 17 9. Our association, and its members frequently submit comments on proposed rules issued
18 by the USDA’s National Organic Program.
- 19 10. Our association and its members are very familiar the final rule entitled, *Organic*
20 *Livestock and Poultry Practices*, 82 Fed. Reg. at 7042-92 (published January 19,
21 2017)(“final rule”) and the *Organic Livestock and Poultry Practices Rule* 81 Fed. at
22 21,956-22,009 (published April 13, 2016)
- 23 11. These two publications captured the work product of many years of effort by the organic
24 community and the National Organic Standards Board.
- 25 12. Among the key issues resolved by the final rule was the access to outdoors for poultry
26 animals, whether grown for meat or eggs. The correct application of the existing
27 standards on this point had been a source of some inconsistency amongst our members
28 primarily due to an unfortunate enforcement decision issued by the USDA early in the
history of the National Organic Program.

1 13. ACA submitted detailed comments to the proposed rule in July 2016 and were supportive
2 of the publication of the final rule in January 2017.

3 14. At the time of July 2016 comment submission ACA said, “The level of detail contained
4 in the Standard will permit more consistent enforcement, and provide operators with the
5 management information they need to meet the requirements.”

6 15. When USDA issued its first delay of the final rule the ACA submitted a letter to recently
7 confirmed USDA Secretary Sonny Perdue that said,

8 a. “Consistent enforcement of the USDA Organic Regulations is crucial to success
9 of the National Organic Program. It creates and a fair and level playing field for
10 organic farmers and handlers. These two components translate into consumer trust
11 in the USDA Organic label. That is why the National Organic Program’s
12 completion of the Organic Livestock and Poultry Practices Rule, published on
13 January 19 of this year, has been strongly applauded by the majority of
14 Accredited Certifying Agents and the farms they certify.”

15 b. “While the new rule was originally scheduled to go into effect on March 20, 2017,
16 a sixty-day delay has resulted in a new effective date of May 19, 2017. The
17 National Organic Standard Board recently passed a unanimous resolution in
18 support of implementing this new rule without further delay. The ACA represents
19 a wide variety of certification agencies, including many of the largest and most
20 knowledgeable certifiers of organic livestock, and we support and echo this
21 request.”

22 16. ACA continues to support immediate implementation of the final rule.

23 17. ACA and its members have spent considerable staff time and financial resources to
24 participate in the multi-year process before the NOSB regarding this rulemaking and to
25 prepare for the implementation of the final rule.

26 18. ACA and its members have spent thousands of hours over many years in conversations
27 with producers, handlers and purchasers of certified organic products throughout the
28 supply chain, including retail consumers, to develop our understanding and expertise in
order to bring consistency and assurance to the organic certification process.

1 19. Withdrawing this final rule or continuing to delay its implementation harms and will
2 continue to harm ACA and its members and could lead to profound disruption to the
3 marketplace for certified organic products by irretrievably damaging consumer trust in
4 the USDA organic seal.

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6 I declare under penalty of perjury that the foregoing is true and correct.

7 Executed this 12th day of September 2017.

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12 Kyla Smith
13 Accredited Certifiers Association
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