

BEFORE THE
SECRETARY OF THE CALIFORNIA
DEPARTMENT OF FOOD AND AGRICULTURE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

VALLEY END FARM
Sharon Grossi
6300 Petaluma Hill Rd.
Santa Rosa, CA 95404

Respondent.

Case No. 6315

OAH No. 2010030031

DECISION AND ORDER


The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Secretary of the California Department of Food and Agriculture, State of California, as its Decision in this matter.

This Decision shall become effective on

July 2, 2010

It is so ORDERED.

John Hewitt, General Counsel



FOR THE SECRETARY OF THE CALIFORNIA
DEPARTMENT OF FOOD AND AGRICULTURE

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7

8 **BEFORE THE**
9 **SECRETARY OF THE CALIFORNIA**
10 **DEPARTMENT OF FOOD AND AGRICULTURE**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **VALLEY END FARM**
14 **Sharon Grossi**
15 **6300 Petaluma Hill Rd.**
16 **Santa Rosa, CA 95404**

17 Respondent.

Case No. 6315

OAH No. 2010030031

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Complainant is the Acting Director of Inspection Services Division of the California
22 Department of Food and Agriculture and is represented in this matter by Edmund G. Brown Jr.,
23 Attorney General of the State of California, by Allison E. Goldsmith, Deputy Attorney General.
24 The federal tax identification number for the Department of Food and Agriculture is 680325104.

25 2. Respondent Valley End Farm, managed by Sharon Grossi, is represented by Effie F.
26 Anastassiou of Anastassiou & Associates.

27 3. Valley End Farm holds County Registration Number 49-0265. Valley End Farm's
28 federal tax identification number is 94-3294760.

CULPABILITY

1
2 10. Respondent admits that Valley End Farm labeled non-organic produce as “transitional
3 organic” in violation of 7 U.S.C. §§ 6504, 6505(a)(1), Code of Federal Regulations Title 7 parts
4 205.102, 205.300, and California Food and Agriculture Code section 46024, subdivision (h).

5 11. Respondent admits that she did not “implement measures necessary to prevent the
6 commingling of organic and nonorganic products” as required by Title 7 Code of Federal
7 Regulations part 205.272, subdivision (a) when non-organic produce from the Yolo County farm
8 was transported in boxes labeled “organic” to the organic farm in Santa Rosa.

9 12. Respondent admits that she commingled organic and non organic produce when non
10 organic produce from the Yolo County farm and fruit from a third party producer was packed in
11 the Community Supported Agriculture boxes with organic produce and was stored in the walk in
12 cooler with the organic produce.

13 13. Respondent admits she did not have records which fully disclosed all activities and
14 transactions of the operation in sufficient detail as to be readily understood and audited available
15 for inspection and copying when the certifying agent conducted its on-site inspection in
16 December 2008 as required by Title 7 Code of Federal Regulations part 205.103 because the “tag
17 book” documenting recent sales was not available and because she did not document or maintain
18 records for “test plots” of produce on the Santa Rosa property.

19 14. Respondent admits she did not adequately communicate with the certifying agent
20 regarding scheduling an annual inspection.

21 15. Respondent admits she repacked organic produce sourced from third party growers,
22 and distributed the organic produce from third party growers with its own organic produce to
23 Valley End Farm’s Community Supported Agriculture members without updating the Organic
24 System Plan, and without being licensed as a handler of organic produce, as required by the
25 National Organic Plan.

26 16. Respondent admits that the Valley End Farm website advertising Community
27 Supported Agriculture membership stated in 2008 and 2009 “In order to obtain your delicious
28 box of produce, we will have a convenient pick up site here at Valley End Farm. Buying it from

1 our farm assures you it is picked the same day you will be receiving it and gives you the
2 assurance it was grown sustainably and organically . . .” and that the Community Supported
3 Agriculture membership sign up sheet stated “Sign up now to receive your seasonal organic
4 produce assortment from Valley End Farm.”

5 17. Respondent admits that she sold non-organic produce to the Community Supported
6 Agriculture members accompanied by newsletters identifying the produce as transitional.

7 18. Respondent admits that she sold approximately \$600 of non-organic fruit to the
8 Community Supported Agriculture members and did not identify it as non-organic.

9 19. Respondent agrees that her organic certificate and County registration are subject to
10 discipline and she agrees to be bound by the Department of Food and Agriculture’s imposition of
11 discipline as set forth in the Disciplinary Order below.

12 CIRCUMSTANCES IN MITIGATION

13 20. Respondent Valley End Farm, managed by Sharon Grossi, has never been the subject
14 of any disciplinary action. Valley End Farm no longer owns the non-organic farm in Yolo
15 County.

16 21. Respondent claims that documents and other evidence subsequently provided by Valley End
17 Farm to California Department of Food and Agriculture, after the December 12, 2008 inspection by CCOF,
18 demonstrate that the produce sold by Valley End Farm as “organic” in 2008 in three separate transactions to
19 local supermarkets could be traced back as being sourced from the Santa Rosa Farm.

20 22. Produce sold by Valley End Farm which was labeled or referred to in sales documents as
21 “transitional organic” from the Yolo County was sold to either Community Supported Agriculture members, or
22 to wholesale customers, who all had previously obtained information from Valley End Farm that the Capay
23 Farm had not yet been certified as organic, and was a “transitional” farm at the time the produce was sold.

24 23. Respondent claims that none of the “transitional” produce that was transported by Valley End
25 Farm from its Yolo County farm to its Santa Rosa farm was sold in cartons that were labeled “organic.”

26 24. Respondent claims that Valley End Farm had valid reasons for seeking to schedule the CCOF
27 inspection on alternative dates to those requested by CCOF, that Valley End Farm ultimately submitted to an
28

1 inspection in 2008, and that Valley End Farm subsequently cooperated with CCOF to schedule inspections in
2 2009.

3 25. Valley End Farm has made attempts to engage the assistance from CCOF to amend and update its
4 Organic System Plan to include the repacking and sale of organic produce grown by third parties for sale to its
5 Community Supported Agriculture members, and to be licensed as a "handler" or organic produce. However,
6 Valley End Farm has been unable to update its Organic System Plan and become licensed as a handler.

7 CONTINGENCY

8 26. This stipulation shall be subject to approval by the Inspection Services Division of the
9 Department of Food and Agriculture. Respondent understands and agrees that counsel for
10 Complainant and the staff of the Department of Food and Agriculture may communicate directly
11 with the Department regarding this stipulation and settlement, without notice to or participation
12 by Respondent. By signing the stipulation, Respondent understands and agrees that she may not
13 withdraw her agreement or seek to rescind the stipulation prior to the time the Department
14 considers and acts upon it. If the Department fails to adopt this stipulation as its Decision and
15 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for
16 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall
17 not be disqualified from further action by having considered this matter.

18 27. The parties understand and agree that facsimile copies of this Stipulated Settlement
19 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
20 effect as the originals.

21 28. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
22 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
24 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
25 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
26 writing executed by an authorized representative of each of the parties.

1 3. **Additional Unannounced Inspection.** Respondent shall permit the certifying agent
2 to conduct one additional on-site inspection which may be an unannounced inspection.
3 Respondent will be obligated to reimburse the certifying agent for the cost of an inspection
4 conducted which is in addition to the annual on-site inspection.

5 4. **Fines.** Respondent shall pay \$15,000 in fines, \$2,500 of which shall be paid by
6 November 30, 2010; \$5,000 of which shall be paid by November 30, 2011; \$5,000 of which shall
7 be paid by November 30, 2012; and \$2,500 shall be paid by September 30, 2013. Respondent
8 may not renew her Registration until all payments due to date are paid.

9 5. **Continuing Education.** Sharon Grossi shall attend one seminar on organic standards
10 or laws per year, provided that there is a seminar put on within 200 miles of Santa Rosa,
11 California within each annual year period of the term of this settlement agreement. The seminars
12 to be attended by Sharon Grossi may be put on by the California Department of Food &
13 Agriculture, by any organization authorized by the California State Bar to put on continuing
14 education seminars, or by any organic certification organization.

15 6. **Identification of Non-organic Items.** Valley End Farm's market materials shall
16 clearly state that the eggs and non-organic "add-ons" for sale to the Community Supported
17 Agriculture members are not organic.

18 7. **Obey All Laws.** Respondent shall obey all federal, state and local laws, and all
19 statutes and regulations governing the Certificate.

20 8. **Violation of Probation.** If Respondent violates the conditions of her probation, the
21 Board, after giving Respondent notice and the opportunity to be heard, may set aside the stay
22 order and impose the discipline (revocation) of Respondent's certificate and registration provided
23 in the decision.

24 If during the period of probation, an accusation, petition to revoke probation, or statement
25 of issues has been filed against Respondent's certification or registration or application for
26 certification, or the Attorney General's office has been requested to prepare such an accusation,
27 petition to revoke probation, or statement of issues, the probation period set forth in this decision
28 shall be automatically extended and shall not expire until the accusation, petition to revoke

1 probation, or statement of issues has been acted upon by the board. Upon successful completion
2 of probation, Respondent's certification and registration shall be fully restored.

3 **9. Maintain Valid Certification and Registration.** Respondent shall maintain valid
4 registration. Should Respondent's certification or registration, by operation of law or otherwise,
5 expire, upon renewal Respondent's certification and registration shall be subject to any and all
6 terms of this probation not previously satisfied.

7 **10. Non-waiver.** If the Department declines to take immediate disciplinary action for
8 violation of statute, regulation, and/or any term(s) of this Stipulated Settlement and Disciplinary
9 Order, this shall not constitute a waiver by the Department of the right to raise that violation at a
10 later date in a disciplinary or other judicial proceeding, or in any other context.

11 **11. No Limitation.** Nothing in this Stipulated Settlement and Disciplinary Order shall be
12 construed as a limitation on the powers or responsibilities of the Department under the laws of the
13 State of California.

14 **12.** Except as otherwise specifically provided in this Stipulated Settlement and
15 Disciplinary Order, the Department shall not file, prosecute, or make any criminal, civil,
16 licensing, or other charges or claims, whether now known or unknown, against Respondent, any
17 Respondent's officers, directors or employees, relating to any act, practice or failure to act of such
18 persons or entities, occurring prior to the date of execution.

19 **13.** The Department represents that the current investigation into Respondent's acts and
20 practices has concluded and that it has no knowledge of any act, practice or failure to act alleged
21 to be the responsibility of and/or attributable to Respondent, which could be a violation of the
22 Food and Agricultural Code or any regulations hereunder, during any time period prior to the
23 Date of Execution, which is not addressed and resolved by this Stipulation.

24 ////

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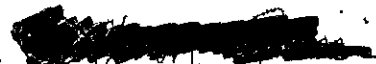
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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on Valley End Farm's organic Certificate and County registration. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Department of Food and Agriculture.

DATED: 6/30/10



VALLEY END FARM
By: Sharon Grossi, Respondent

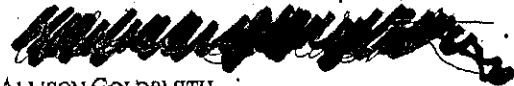
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Department of Food and Agriculture, Inspection Services Division.

Dated: June 29, 2010

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
ROBERT W. BYRNE
Supervising Deputy Attorney General



ALLISON GOLDSMITH
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 6315

1 EDMUND G. BROWN JR.
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2 ROBERT W. BYRNE
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3 ALLISON GOLDSMITH (SEN 238263)
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7 Attorneys for Complainant

8
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SECRETARY OF THE CALIFORNIA
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DFA Case No. 6315

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14 **Sharon Grossi**
15 **6300 Petaluma Hill Rd.**
Santa Rosa, CA 95404

OAH Case No.

A C C U S A T I O N

16 Certificate No. 2008-02564

Hearing Date:

17 Respondent.

18
19 Complainant alleges:

20 PARTIES

21
22 1. Nate Dechoretz, (Complainant) brings this Accusation solely in his official capacity
23 as the Director of Inspection Services Division of the California Department of Food and
24 Agriculture.

25 2. On or about February 20, 2002, California Certified Organic Farmers Certification
26 Services, LLC (CCOF), accredited as a certification agent under the National Organic Program,
27 issued Organic Certification Certificate Number 2008-02564 to Respondent Valley End Farm,
28

1 managed by Sharon Grossi. The certificate was in full effect at all times relevant to the charges
2 brought herein.

3 3. From April 2006 through December 2008, Valley End Farm managed two farms.
4 The farm in Sonoma County was certified organic. The farm in Yolo County could not be
5 certified as organic because it could not be shown that no prohibited substances had been applied
6 to the land for the previous three years. The produce from the Yolo County farm was therefore
7 non-organic.

8 9 JURISDICTION

10 4. This Accusation is brought before the California Department of Food and Agriculture
11 and the Secretary under the authority of the California Food and Agriculture Code Section 46000,
12 which authorizes the State Department of Food and Agriculture to enforce regulations adopted by
13 the National Organic Program. The National Organic Program is codified in the Federal Organic
14 Foods Production Act of 1990. (7 U.S.C. § 6501 et seq.)

15 5. Code of Federal Regulations, Title 7, Section 205.681(a)(2) and California Code of
16 Regulations, Title 3, section 1391 authorize the Secretary to initiate a formal administrative
17 proceeding to revoke organic certification in accordance with the provisions of Government
18 Code, Section 11500 et seq.

19 20 INTRODUCTION

21 6. The National Organic Program is a nationwide structure for certification that
22 regulates the standards for any farm, wild crop harvesting, or handling operation selling an
23 agricultural product as organically produced. (7 U.S.C. § 6501 et seq.) Because it is not possible
24 from appearance to determine whether a product is organic, the heart of the program lies in
25 inspections, documentation, and reporting to validate that agricultural products advertised as such
26 are indeed organic.

27 7. The California State Organic Program was established by the California Organic
28 Products Act of 2003, Section 46000 of the California Food and Agriculture Code. The State

1 Organic Plan authorizes the State Agriculture Secretary to enforce regulations adopted by the
2 National Organic Program. If a violation has occurred, the Secretary or authorized representative
3 may take any corrective action as specified in this act.

4 8. Code of Federal Regulations, Title 7 sections 205.1 through 205.690 contain
5 standards for implementation of the National Organic Plan.

6

7 STATUTORY AND REGULATORY PROVISIONS

8 9. Title 7, Code of Federal Regulations part 205.2 (Terms defined) defines the following
9 terms:

10 *Audit trail.* Documentation that is sufficient to determine the source, transfer of
11 ownership, and transportation of any agricultural product labeled as "100 percent
organic," [or] the organic ingredients of any agricultural product labeled as "organic".

12

Certifying agent. Any entity accredited by the Secretary as a certifying agent for the
13 purpose of certifying a production or handling operation as a certified production or
14 handling operation.

15 *Handler.* Any person engaged in the business of handling agricultural products,
16 including producers who handle crops or livestock of their own production, except
such term shall not include final retailers of agricultural products that do not process
agricultural products.

17 *Market information.* Any written, printed, audiovisual, or graphic information,
18 including advertising, pamphlets, flyers, catalogues, posters, and signs, distributed,
broadcast, or made available outside of retail outlets that are used to assist in the sale
19 or promotion of a product.

20 *Organic system plan.* A plan of management of an organic production or handling
operation that has been agreed to by the producer or handler and the certifying agent
21 and that includes written plans concerning all aspects of agricultural production or
handling described in the Act and the regulations in subpart C of this part.

22 *Producer.* A person who engages in the business of growing or producing food,
23 fiber, feed, and other agricultural-based consumer products.

24 *Records.* Any information in written, visual, or electronic form that documents the
activities undertaken by a producer, handler, or certifying agent to comply with the
25 Act and regulations in this part.

26 *Split operation.* An operation that produces or handles both organic and nonorganic
agricultural products.

27 ///

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ORGANIC LABELING

3

10. Title 7 United States Code, § 6504 (National Standards for Organic Production)

4

provides, in pertinent part, that:

5

To be sold or labeled as an organically produced agricultural product under this title, an agricultural product shall

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...

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8

(2) not be produced on land to which any prohibited substances, including synthetic chemicals, have been applied during the 3 years immediately preceding the harvest of the agricultural products; and

9

10

(3) be produced and handled in compliance with an organic plan agreed to by the producer and handler of such product and the certifying agent.

11

11. Title 7 United States Code, § 6505(a)(1) (Compliance requirements) limits the use of

12

an organic seal to only those products produced and handled in accordance with the National

13

Organic Program. It provides, in pertinent part:

14

(A) a person may sell or label an agricultural product as organically produced only if such product is produced and handled in accordance with this title; and

15

16

(B) no person may affix a label to, or provide other market information concerning, an agricultural product if such label or information implies, directly or indirectly, that such product is produced and handled using organic methods, except in accordance with this title.

17

18

12. Title 7 Code of Federal Regulations part 205.102 (Use of the term, "organic")

19

provides in pertinent part:

20

Any agricultural product that is sold, labeled, or represented as "100 percent organic," [or] "organic," . . . must be:

21

22

(a) Produced in accordance with the requirements specified in Sec. 205.101 or Sec. Sec. 205.202 through 205.207 or Sec. Sec. 205.236 through 205.239 and all other applicable requirements of part 205; and

23

24

(b) Handled in accordance with the requirements specified in Sec. 205.101 or Sec. Sec. 205.270 through 205.272 and all other applicable requirements of this part 205.

25

13. Title 7 Code of Federal Regulations part 205.300(a) (Use of the term, "organic.")

26

provides, in pertinent part:

27

(a) The term, "organic," may only be used on labels and in labeling of raw or processed agricultural products, including ingredients, that have been produced and handled in accordance with the regulations in this part. The term, "organic," may not

28

1 be used in a product name to modify a nonorganic ingredient in the product.

2 14. Title 7 Code of Federal Regulations part 205.272 (Commingling and contact with
3 prohibited substance prevention practice standard) provides, in pertinent part: "(a) The handler of
4 an organic handling operation must implement measures necessary to prevent the commingling of
5 organic and nonorganic products"

6 INSPECTIONS AND RECORD KEEPING

7 15. To enforce these requirements, the National Organic Program requires an annual on-
8 site inspection by the certifying agent. (7 U.S.C. § 6506(a)(5).) It also requires that detailed
9 records be maintained by the business for five years concerning the production or handling of
10 agricultural products sold or labeled as organically produced. (7 U.S.C. §6511(d).)

11 16. Title 7 Code of Federal Regulations part 205.403 (On-site inspections.) provides, in
12 pertinent part:

13 (a) On-site inspections.

14 (1) A certifying agent must conduct an initial on-site inspection of each production
15 unit, facility, and site that produces or handles organic products and that is included in
16 an operation for which certification is requested. An on-site inspection shall be
conducted annually thereafter for each certified operation that produces or handles
organic products for the purpose of determining whether to approve the request for
certification or whether the certification of the operation should continue.

17 (2) (i) A certifying agent may conduct additional on-site inspections of applicants
18 for certification and certified operations to determine compliance with the Act and the
regulations in this part.

19 . . .

20 (iii) Additional inspections may be announced or unannounced at the discretion of the
21 certifying agent or as required by the Administrator or State organic program's
governing State official.

22 . . .

23 (c) Verification of information. The on-site inspection of an operation must verify:

24 (1) The operation's compliance or capability to comply with the Act and the
25 regulations in this part;

26 (2) That the information, including the organic production or handling system plan,
27 provided in accordance with Sec. Sec. 205.401, 205.406, and 205.200, accurately
reflects the practices used or to be used by the applicant for certification or by the
28 certified operation;

1 17. Title 7 Code of Federal Regulations part 205.103 (Recordkeeping by certified
2 operations) provides:

3 (a) A certified operation must maintain records concerning the production,
4 harvesting, and handling of agricultural products that are or that are intended to be
5 sold, labeled, or represented as "100 percent organic," [or] "organic,"

6 (b) Such records must:

7 (1) Be adapted to the particular business that the certified operation is
8 conducting;

9 (2) Fully disclose all activities and transactions of the certified operation in
10 sufficient detail as to be readily understood and audited;

11 (3) Be maintained for not less than 5 years beyond their creation; and

12 (4) Be sufficient to demonstrate compliance with the Act and the regulations in
13 this part.

14 (c) The certified operation must make such records available for inspection and
15 copying during normal business hours by authorized representatives of the Secretary,
16 the applicable State program's governing State official, and the certifying agent.

17 18. Title 7 United States Code § 6519(c) provides that any person who makes a false
18 statement, or attempts to have a label indicating that an agricultural product is organically
19 produced affixed to such product that such person knows, or should have reason to know, to have
20 been produced or handled in a manner that is not in accordance with this title; or who otherwise
21 violates the purposes of the applicable organic certification program as determined by the
22 Secretary; after notice and an opportunity to be heard, shall not be eligible, for a period of 5 years
23 from the date of such occurrence, to receive certification under this title with respect to any farm
24 or handling operation in which such person has an interest.

25 FIRST CAUSE FOR DISCIPLINE

26 (Sale of Non-Organic Produce as Organic)

27 19. Respondent is subject to disciplinary action under 7 U.S.C. §§ 6504, 6505(a)(1) and
28 Code of Federal Regulations Title 7 parts 205.102, 205.300 in that as manager of Valley End
Farm, Ms. Grossi sold non-organic produce as organic. The circumstances are as follows:

1 25. Respondent is subject to disciplinary action under United States Code Title 7, section
2 6506(a)(5) and Code of Federal Regulations Title 7, part 205.403(a) and (c) in that Valley End
3 Farm manager Sharon Grossi refused to schedule an inspection of the farms from June 25, 2008
4 until December 11, 2008. When an inspection did occur, Ms. Grossi did not make full records
5 available to the inspectors.

6
7 FIFTH CAUSE FOR DISCIPLINE

8 (Failure to Maintain Adequate Records)

9 26. Respondent is subject to disciplinary action under section Title 7 Code of Federal
10 Regulations part 205.103 in that the records provided to the inspector on or about December 12,
11 2008 did not fully disclose all activities and transactions of the certified operation in sufficient
12 detail as to be readily understood or audited, and were not sufficient to demonstrate compliance
13 with the National Organic Program.

14
15 PRAYER

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein
17 alleged, and that following the hearing, the Secretary of the California Department of Food and
18 Agriculture issue a decision:

- 19 1. Revoking Organic Certification, Certificate Number 2008-02564 issued to Valley
20 End Farm, managed by Sharon Grossi.
21 2. Taking such other and further action as deemed necessary and proper.

22 Dated: December ____, 2009

23 Respectfully Submitted,

24 

25 for NATE DECHORETZ
26 Director
27 Inspector Services Division
28 Department of Food and Agriculture
State of California
Complainant

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