



**U.S. Customs and  
Border Protection**

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**PUBLIC VERSION**

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**RE: EAPA Case No. 7835 – Notice of Determination as to Evasion**

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To the Counsel for the Above-Referenced Entities:

Pursuant to an examination of the record in Enforce and Protect Act (“EAPA”) Investigation 7835, U.S. Customs and Border Protection (“CBP”) has determined there is substantial evidence that Lighthouse Rock Consulting LLC (“Lighthouse Rock,” or “the Importer”) entered merchandise covered by antidumping duty (“AD”) order A-570-985 into the customs territory of the United States through evasion.<sup>1</sup> Substantial evidence demonstrates that Lighthouse Rock evaded the *Order* by importing xanthan gum from the People’s Republic of China (“China”) that had been transshipped through India with a false country of origin. Lighthouse Rock did not declare that the merchandise was subject to the *Order* on entry and, as a result, no cash deposits were applied to the merchandise.

**Background**

On July 3, 2023, CP Kelco U.S., Inc. (“the Alleger,” or “CP Kelco”) filed an EAPA allegation alleging that the Importer evaded the *Order* on xanthan gum from China.<sup>2</sup> Supplements to the

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<sup>1</sup> See *Xanthan Gum from the People’s Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 78 FR 43143 (July 19, 2013) (“*Order*”).

<sup>2</sup> See Letter from CP Kelco, “Xanthan Gum from the People’s Republic of China: Evasion of Antidumping Order via Transshipment through India,” dated July 3, 2023 (“*Allegation*”).

Allegation were submitted on September 28, 2023, and November 14, 2023.<sup>3</sup> The Allegation asserted that Lighthouse Rock was importing Chinese-origin xanthan gum into the United States that was transshipped through India.<sup>4</sup> On November 15, 2023, the Trade Remedy Law Enforcement Directorate (“TRLED”), within CBP’s Office of Trade, acknowledged receipt of the properly filed Allegation by the Alleger.<sup>5</sup> The Alleger is a U.S. producer of domestic like product in the United States; thus, pursuant to 19 C.F.R. § 165.1(2), the Alleger meets the definition of an interested party that is permitted to submit an EAPA allegation.<sup>6</sup> TRLED found the information provided in the Allegation (*i.e.*, an affidavit, U.S. import data, vessel manifest data, a prior EAPA investigation finding evasion of the *Order* by way of transshipment through India, and a 2018 report issued by the United States International Trade Commission (“USITC”)) reasonably suggested that the Importer entered covered merchandise into the customs territory of the United States through evasion.<sup>7</sup> Consequently, CBP initiated an EAPA investigation on December 7, 2023.<sup>8</sup>

### *Allegation and Initiation of Investigation*

CP Kelco provided an affidavit and a report from the USITC, both of which indicated that xanthan gum is only produced in Austria, France, China, and the United States, and India is not listed as a producer of xanthan gum.<sup>9</sup>

Import data in the Allegation suggest that U.S. imports of xanthan gum from India originated from China.<sup>10</sup> Specifically, import data indicated a shipment of xanthan gum was exported by Jay Dinesh Chemicals (“Jay Dinesh”) from India, an Indian chemical manufacturer,<sup>11</sup> and imported by Lighthouse Rock into the United States.<sup>12</sup> Based on the manufacturing information for the shipment from Jay Dinesh, the xanthan gum likely originated from China.<sup>13</sup> Although Jay Dinesh promotes xanthan gum on its website, claiming to be manufactured in India, the Alleger claimed that Jay Dinesh actually sources xanthan gum from a Chinese manufacturer, Deosen Biochemicals (Ordos) Ltd. (“Deosen”).<sup>14</sup>

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<sup>3</sup> CP Kelco added additional information to enhance its initial allegation, *see* letters “Xanthan Gum from the People’s Republic of China: First Supplement to EAPA Case #7835 Allegation of Evasion of Antidumping Order via Transshipment through India against Lighthouse Rock Consulting LLC and Jay Dinesh Chemicals,” dated September 28, 2023 (“1st Allegation Supplement”); and “Xanthan Gum from the People’s Republic of China: Second Supplement to EAPA Case #7835: Allegation of Evasion of Antidumping Order via Transshipment through India against Lighthouse Rock Consulting LLC,” dated November 14, 2023 (“2nd Allegation Supplement”).

<sup>4</sup> *See* the Allegation, 1st Allegation Supplement and 2nd Allegation Supplement.

<sup>5</sup> *See* CBP’s email, “EAPA 7835 - Receipt of Properly Filed Allegation,” dated November 15, 2023.

<sup>6</sup> *See* Allegation at 2.

<sup>7</sup> *See* CBP Memorandum, “Initiation of Investigation for EAPA Case Number 7835,” dated December 7, 2023 (Initiation Notice). *See also* Allegation and CBP’s Memo, “RE: EAPA Case No. 7794 – Notice of Determination as to Evasion,” dated December 4, 2023.

<sup>8</sup> *See* Initiation Notice.

<sup>9</sup> *See* Allegation at 7 and Attachment 7.

<sup>10</sup> *See* Allegation at 7, 1st Allegation Supplement and 2nd Allegation Supplement.

<sup>11</sup> *See* Allegation at 1-3.

<sup>12</sup> *See* Allegation at 6-7, and 1st Allegation Supplement at 1-4.

<sup>13</sup> *See* Allegation, 1st Allegation Supplement and 2nd Allegation Supplement.

<sup>14</sup> *See* Allegation and 1st Allegation Supplement.

On November 14, 2023, the Alleger provided supplemental information about another Indian company, Swastik Gum Industries (India) (“Swastik Gum”), exporting to Lighthouse Rock.<sup>15</sup> Swastik Gum is an Indian company that processes and exports various products from India, including food ingredients and spices,<sup>16</sup> not xanthan gum.<sup>17</sup> The Alleger claimed that the shipments of xanthan gum imported by Lighthouse Rock from Swastik Gum also provided a false country of origin.<sup>18</sup> According to the vessel manifest data which indicates a country of origin of India, and the fact that xanthan gum is not manufactured in India, the Alleger argued that the xanthan gum was likely of Chinese origin.<sup>19</sup>

The Alleger also provided information that additional entities are complicit in evading the *Order*, included U.S. freight forwarder, Amity Global Logistics Inc. (“Amity Global”) and Bavaria Exim Ltd. (“Bavaria Exim”),<sup>20</sup> a U.K. company that sells primarily machinery and industrial equipment.<sup>21</sup>

CBP found the information submitted by CP Kelco reasonably suggested that Lighthouse Rock entered covered merchandise into the customs territory of the United States through evasion. Consequently, as noted above, on December 7, 2023, CBP initiated an EAPA investigation.<sup>22</sup> The entries covered by this investigation are those entered for consumption, or withdrawn from warehouse for consumption, from December 7, 2022, through the pendency of this investigation.<sup>23</sup>

#### *CBP Form 28 (“CF-28”) Response*

On November 30, 2023, CBP issued CF-28s to Lighthouse Rock to request information for two entries, entry no. [ # ]6158 (“Entry 6158”) and entry no. [ # ]2297 (“Entry 2297”).<sup>24</sup> CBP requested sales and production documentation such as purchase orders, invoices and proof of payments, and xanthan gum production records.<sup>25</sup> Lighthouse Rock submitted its responses on January 12, 2024.<sup>26</sup>

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<sup>15</sup> See 2<sup>nd</sup> Allegation Supplement.

<sup>16</sup> *Id.* at 2.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> See 1<sup>st</sup> Allegation Supplement at 4.

<sup>21</sup> *Id.*

<sup>22</sup> See Initiation Notice.

<sup>23</sup> See 19 C.F.R. § 165.2.

<sup>24</sup> See CF-28 for entries [ # ]6158 and [ # ]2297 sent to Lighthouse Rock, dated November 30, 2023 (CF-28 Request for Information).

<sup>25</sup> See Lighthouse Rock Response to CF-28 Request for Information, Entries 6158 and 2297, dated January 12, 2024 (CF-28 Response).

<sup>26</sup> See CF-28 Response.

The response included documentation regarding the production of xanthan gum provided to [ company ].<sup>27</sup> Details of the production process included statements found verbatim in a research paper on the impact of pH, temperature, and aeration on cellular growth and xanthan production by *Xanthomonas campestris* using residual molasses.<sup>28</sup> Other sections of the submission, identical in each response, featured in-depth production processes, and quality checks forms.<sup>29</sup> Charts and graphs detailing the batch numbering systems were identical, but each response had quantities to represent xanthan gum produced by Jay Dinesh and Swastik Gum.<sup>30</sup> Photographs of Jay Dinesh’s and Swastik Gum’s premises did not show active machines engaged in production or employees at work.<sup>31</sup> For example, there were [ pictures of a company’s manufacturing facility ],<sup>32</sup> and in addition, there were unlabeled pictures for [ company ] with no descriptions of the machines.<sup>33</sup> Lighthouse Rock did not submit production records from Jay Dinesh or Swastik. In addition, the submission did not include proof of raw materials purchased for either entry. The proof of payment for the xanthan gum sold in both responses shared sequential reference numbers, suggesting that payment for products in one entry was made directly after the payment for products in the second entry [ # ] and [ # ].<sup>34</sup> The commercial invoice numbers, [ # ] and [ # ], indicated payments between Lighthouse Rock and a company [ company ] without suggesting that [ company ] was the ultimate U.S. customer.<sup>35</sup>

For Entry 6158, Jay Dinesh was listed as the manufacturer<sup>36</sup> despite pictures of xanthan gum products on Jay Dinesh’s website listed as being manufactured by Chinese xanthan gum manufacturer, Deosen.<sup>37</sup>

A search of open sources confirms that Jay Dinesh is in India, and has three websites.<sup>38</sup> According to its main website, the company manufactures oilfield chemicals, photographic chemicals, pharmaceutical raw materials, caramel color, specialty chemicals, photography chemical, detergents, metal finishing, oxygen scavenger and corrosion inhibitor.<sup>39</sup> The review of the websites associated with Jay Dinesh showed xanthan gum for sale on one of them, but the website did not suggest that Jay Dinesh had production capabilities for this product.<sup>40</sup> Specifically, two xanthan gum products are offered on <https://www.jaydineshchemicals.com>; however, photographs and a certificate of analysis for one of the xanthan gum products indicated Chinese company Shandong Fufeng Fermentation Co. Ltd. (“Fufeng”) was the manufacturer and

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<sup>27</sup> *Id.*

<sup>28</sup> *Id.*, and CBP’s Memorandum to the File, “RE: EAPA Case No. 7835 – Information from Research Article,” dated March 3, 2024.

<sup>29</sup> See CF-28 Response.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 30-32.

<sup>33</sup> *Id.* at 77-78.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> See 1<sup>st</sup> Allegation Supplement at Attachment 4.

<sup>38</sup> The main website appears to be <https://www.jaydinesh.com>, which links to <https://www.dineshchemical.com> and <https://www.jaydineshchemicals.com>.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

China was the country of origin.<sup>41</sup> Fufeng promotes itself as one of the largest producers of xanthan gum in China with an annual capacity of 90,000 tons.<sup>42</sup> The other xanthan gum product listed on Jay Dinesh’s website indicates that Chinese company Deosen is the manufacturer.<sup>43</sup> Deosen’s website claims to specialize in production of xanthan gum, claiming it is one of the largest producers worldwide.<sup>44</sup>

According to the documents provided in Entry 6158, the bill of lading number [ # ] is not formatted typically as other bills of lading, the number is listed differently on the invoice, the bill of lading number does not appear in CBP trade data, and the vessel information appears to be incorrect.<sup>45</sup> These factors call into question the validity of the submitted bill of lading.

For Entry 2297, Swastik Gum is the claimed manufacturer of the xanthan gum.<sup>46</sup> Swastik Gum also has multiple websites. While Swastik Gum’s main website does not list xanthan gum as a product for sale,<sup>47</sup> <https://www.riceflourindia.com>, its secondary website, indicates Swastik Gum is a seller of xanthan gum.<sup>48</sup> The photographs on the secondary website show bags of xanthan gum with the country of origin marking of Wujiaqu City, Xinjiang, China.<sup>49</sup> In addition, Swastik Gum advertised its xanthan gum products through Indiamart’s business portal.<sup>50</sup> Photographs and product details indicated Swastik Gum sells xanthan gum from Chinese producers Fufeng and Meihua Holding Group Co., Ltd. (“Meihua”).<sup>51</sup> As noted above, Fufeng is a Chinese supplier of xanthan gum to Jay Dinesh. Meihua also claims it is one of the world’s largest suppliers of xanthan gum.<sup>52</sup>

### *Supplemental CF-28 Responses*

On January 18, 2024, CBP issued a supplemental CF-28 to Lighthouse Rock for both Entry 6158 and Entry 2297, with specific questions regarding exporter, [ company ].<sup>53</sup> The supplemental questionnaire again requested the production records of xanthan gum from Jay Dinesh Chemicals as well as Swastik Gum.<sup>54</sup> In addition, CBP requested the proof of payment and transactional documents for the raw materials to produce the xanthan gum for each entry.<sup>55</sup> CBP also

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<sup>41</sup> The website for this manufacturer is [www.fufeng-group.com](http://www.fufeng-group.com). See also CBP’s Memorandum to the File, “EAPA Case No. 7835 – Information from Companies’ Websites,” dated March 3, 2024 (“Memo to the File March 3”).

<sup>42</sup> See <https://www.linkedin.com/company/fufeng-group>.

<sup>43</sup> The website for this manufacturer is <https://www.deosen.com>. See also Memo to the File March 3.

<sup>44</sup> See <https://www.deosen.com/deosen-profile.html>.

<sup>45</sup> See CF-28 Response.

<sup>46</sup> See CBP’s Memorandum to the File, “EAPA Case No. 7835 – Information from Companies’ Websites,” dated March 5, 2024 (“Memo to the File March 5”), for Swastik Gum’s website, <https://swastikgum.com>.

<sup>47</sup> See 2<sup>nd</sup> Allegation Supplement at 2.

<sup>48</sup> See Memo to the File March 5 at Attachment 2 for Rice Flour at <https://www.riceflourindia.com>.

<sup>49</sup> *Id.*

<sup>50</sup> See <https://www.indiamart.com/swastik-gum-industries/xanthan-gum-powder.html>.

<sup>51</sup> *Id.*

<sup>52</sup> See <http://www.meihuagr.com/en/index.php/about.html>.

<sup>53</sup> See Supplemental CF-28 for Entry 6158 and Entry 2297 sent to Lighthouse Rock, dated January 18, 2024 (CF-28 Request for Information Supplement).

<sup>54</sup> See CF-28 Request for Information Supplement.

<sup>55</sup> See CF-28 Request for Information Supplement.

requested further explanation regarding invoices [ # ] and [ # ] between Lighthouse Rock and [ company ]<sup>56</sup> since the original response did not include purchases orders which would have established the agreement for the transactions.

Lighthouse Rock's supplemental CF-28 response was submitted by its broker on February 12, 2024.<sup>57</sup> The response included a "manufacturer letter" that indicated that a company called [ company ] was the manufacturer of xanthan gum for these two entries.<sup>58</sup> The "manufacturer letter" stated that all raw materials utilized in the production of xanthan gum were sourced and produced locally within India.<sup>59</sup> The submission included a purchase order for multiple items along with payments for a variety of chemicals which did not include xanthan gum.<sup>60</sup> The submission for both entries included identical documents for the spray drying process, which listed the output of xanthan gum at [ # ] kgs on [ date ].<sup>61</sup> The documents were prepared on [ date ], checked by the production and quality assurance managers on [ date ], 5 months earlier than the production date.<sup>62</sup> Manufacturing records detailing the xanthan gum production, did not state final production quantities.<sup>63</sup> The final step of production was on [ date ]; however, the shipment was ordered [ date ], and shipped on [ date ], for [ # ] kgs per shipment, with the [ # ] shipments totaling [ # ] kgs.<sup>64</sup> The production quantity ([ # ]) does not match shipped quantity ([ # ]). The response also furnished proof of wire transfers from [ company ], a U.S. company, to Lighthouse Rock in the amount of [ # ] for [ # ] transactions.<sup>65</sup> Lighthouse Rock subsequently paid [ company ] [ # ].<sup>66</sup>

On February 12, 2024, Lighthouse Rock, through its counsel, submitted a second supplemental CF-28 response for the entries.<sup>67</sup> The submission reported that Lighthouse Rock had [ relationship ] with [ companies ], the claimed manufacturer of the xanthan gum entries.<sup>68</sup> The submission claimed that Lighthouse Rock acted as the Importer of Record ("IOR") to salvage the transactions originating between [ company ] and the original IOR, [ company ].<sup>69</sup> Lighthouse Rock stated that it requested manufacturing information from [ company ], and indicated that [ company ] provided very little documentation. This led Lighthouse Rock to assert that it could not confirm that [ company ], was the manufacturer.<sup>70</sup> As such, Lighthouse Rock noted that it did not declare [ company ] as the manufacturer on the entry documents to CBP for Entry 6158 and Entry 2297.

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<sup>56</sup> See CF-28 Request for Information Supplement.

<sup>57</sup> See Lighthouse Rock Broker Response to CF-28 Supplemental Request for Information, Entry 6158 and Entry 2297, dated February 12, 2024 ("CF-28 Broker Supplemental Response").

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.* at Attachment C. We note that xanthan was misspelled as 'xantham' on this document.

<sup>62</sup> *Id.*

<sup>63</sup> *Id.* at Attachment D. Additionally, xanthan was misspelled as 'xantham' on this document.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> See Lighthouse Rock Attorney Response to CF-28 Supplemental Request for Information, Entry 6158 and Entry 2297, dated February 12, 2024 ("CF-28 Atty Supplemental Response").

<sup>68</sup> *Id.* at 4 to 5.

<sup>69</sup> *Id.* at 4.

<sup>70</sup> *Id.*

Further, Lighthouse Rock claimed that [ company ] indicated that [ company ] is a [ business relationship ] between [ companies ]; however, Lighthouse Rock indicated it was not able to confirm this information.<sup>71</sup> The relationship between [ companies' business relationship ].<sup>72</sup> Lighthouse Rock maintained that the certificates of origin as well as any documents received from [ company ] detailing the production of xanthan gum, should be scrutinized for authenticity.<sup>73</sup>

The website for [ company ] did not identify xanthan gum in any of its product categories.<sup>74</sup> However, xanthan gum was listed on the company's certificate of compliance and halal certificate.<sup>75</sup> The website, Indiamart.com listed xanthan gum sold by [ company ] in a powder form. The website Tradeindia.com listed [ company ] and the sale of [ # ] types of xanthan gum with labeling that stated for one type it was able to supply [ # ] kg per month, and for the other type, it could supply [ # ] kg per week.<sup>76</sup>

Lighthouse Rock stated that it became the importer of record for [ company ] after [ company ] partnership with [ company ], the original IOR, ended. The ultimate purchaser of the xanthan gum, [ company ], paid Lighthouse Rock for the shipments, and Lighthouse Rock, in turn, paid [ company ].<sup>77</sup> These payments do not reflect any compensation for Lighthouse Rock, as the total amount paid by [ company ] was remitted to [ company ]. Lighthouse Rock provided no explanation as to why it would engage in this activity for [ company ] without compensation.

### *Interim Measures*

After evaluating the information on the record at that time from the Allegation, CF-28 Response, the two supplemental CF-28 Responses, and exporters' websites, on March 13, 2024, CBP issued its Notice of Initiation and Interim Measures.<sup>78</sup> TRLED determined that there was reasonable suspicion that the Importer evaded the *Order* by claiming the xanthan gum it imported into the United States was of Indian origin when it was actually of Chinese origin.<sup>79</sup> Based on the failure to provide raw material purchase records in the CF-28 Responses and other record evidence, including the admittance by Lighthouse Rock through counsel of the unreliability of the information submitted in the supplemental CF-28 Response, the absence of indicators of xanthan gum production on the Indian supplier websites that are associated with the

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<sup>71</sup> *Id.*

<sup>72</sup> *Id.* at 5.

<sup>73</sup> *Id.*

<sup>74</sup> See CBP's Memorandum to the File, "EAPA Case No. 7835 – Information from Companies' Websites," dated March 6, 2024 ("Memo to the File March 6") for [ company ] at Attachment 1. The company's website stated it sells specifically, "tablets, capsules, injectables, proteins, herbal extracts, essential oils, and effervescent tablets."

<sup>75</sup> See Memo to the File March 6 at Attachment 2.

<sup>76</sup> *Id.* at Attachment 3.

<sup>77</sup> See CF-28 Atty Supplemental Response. Lighthouse Rock explained that the proof of payment from it to [ company ], the actual seller, was an even transfer of the money paid by the buyer of the xanthan gum, [ company ], to Lighthouse Rock.<sup>77</sup> The payments received and forwarded only reflect the xanthan gum sales.

<sup>78</sup> See CBP's Memo, "Re: Notice of Initiation of Investigation and Interim Measures - EAPA Case 7835," dated March 13, 2024 ("NOI").

<sup>79</sup> *Id.*

importer's entries, and the information provided in the Allegation, *i.e.*, company affidavit, U.S. import data, reference to prior EAPA investigations, and USITC report, CBP found reasonable suspicion that merchandise covered by the *Order* was transshipped through India to the United States.<sup>80</sup>

### *Requests for Information*

On April 10, 2024, and April 18, 2024, CBP issued requests for information (“RFIs”) to Lighthouse Rock,<sup>81</sup> and identified manufacturers, [ company ],<sup>82</sup> Jay Dinesh,<sup>83</sup> and Swastik Gum.<sup>84</sup> CBP also sent RFIs to [ company ]<sup>85</sup> and [ company ],<sup>86</sup> as well as to the freight forwarder, [ company ],<sup>87</sup> and the broker, [ company ].<sup>88</sup> CBP sent a supplemental RFI to Lighthouse Rock on June 21, 2024.<sup>89</sup>

[ company ], Jay Dinesh, and Swastik Gum did not submit any responses. On May 22, 2024, CBP provided [ company ] and Jay Dinesh a second opportunity to respond, although neither company provided a response.<sup>90</sup> Swastik Gum did not respond to the RFI, and when it was provided a second chance to do so on May 22, 2024, instead of submitting a response, it emailed CBP on May 28, 2024, asking what the purpose of the RFI was. In response, CBP resent its May 29, 2024, email providing Swastik Gum a second chance to respond. Instead of a response, Swastik Gum stated in an email that its xanthan gum was locally manufactured but provided no evidence for this assertion.<sup>91</sup>

[ company ] and [ company ] submitted RFI responses, but these were rejected on June 22 and June 25, 2024, respectively, because these companies did not follow CBP's filing requirements.<sup>92</sup> Both companies were provided additional opportunities to remedy the deficiencies in their RFI responses. Neither company remedied these deficiencies; thus, the record contains no RFI responses for [ company ] or [ company ]. As such, only Lighthouse Rock's, May 9, 2024, and July 5, 2024, responses are on the administrative record.

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<sup>80</sup> *Id.*

<sup>81</sup> See CBP's Request for Information to Lighthouse Rock, dated April 10, 2024.

<sup>82</sup> See CBP's Request for Information to [ company ], dated April 10, 2024.

<sup>83</sup> See CBP's Request for Information to Jay Dinesh, dated April 10, 2024.

<sup>84</sup> See CBP's Request for Information to Swastik Gum, dated April 10, 2024.

<sup>85</sup> See CBP's Request for Information to [ company ], dated April 10, 2024.

<sup>86</sup> See CBP's Request for Information to [ company ], dated April 10, 2024.

<sup>87</sup> See CBP's Request for Information to [ company ], dated April 10, 2024.

<sup>88</sup> See CBP's Request for Information to [ company ], dated April 10, 2024.

<sup>89</sup> See CBP's Supplemental Request for Information to Lighthouse Rock, dated June 21, 2024.

<sup>90</sup> The RFIs were also mailed via FedEx on June 28, 2024.

<sup>91</sup> See Swastik Gum's June 29, 2024, email.

<sup>92</sup> [ company ] initial response was rejected due to over bracketing, and its second response did not protect certain business confidential information it was instructed to protect. [ company ] initial response was rejected due to the improper treatment of the documents in its response and its second response did not provide public versions with summaries. *Id.*



## *Lighthouse Rock's Responses*

In its RFI response and supplemental RFI response, Lighthouse Rock stated it is not involved in the development, manufacture, sale or distribution of the xanthan gum, but agreed to serve as IOR for [ # ] shipments of xanthan gum from India sold by [ company ] to [ company ].<sup>93</sup> As a result, it did not require factory profiles of the manufacturers, nor did it verify production capabilities of the suppliers and/or manufacturers, as [ company ] was responsible for contacting Jay Dinesh and Swastik Gum.<sup>94</sup> Lighthouse Rock claims that the initial sale of xanthan gum between [ company ] and [ company ] was arranged by the original IOR, [ company ], but when the business relationship was terminated between [ company ] and [ company ] less than amicably,<sup>95</sup> Lighthouse Rock agreed to act as IOR.<sup>96</sup> Lighthouse Rock claimed it has no knowledge of the business transactions between [ company ] and [ company ], and that its only role in these transactions is to act as an IOR.<sup>97</sup>

Lighthouse Rock claimed that broker [ company ] used documentation and information provided by [ company ] and [ company ] to file the CBP entry summary.<sup>98</sup> Lighthouse Rock claimed no knowledge of how the import records are created, maintained or transferred.<sup>99</sup> Lighthouse Rock stated that it discontinued operations and no longer imports merchandise into the United States as of March 25, 2024, and stated that it did not implement safeguards to prevent the unlawful transshipment of xanthan gum when it was operational.<sup>100</sup>

Entry 6158 contained a purchase order from Lighthouse Rock to [ company ] dated [ date ], which is later than [ company ] invoice to Lighthouse Rock dated [ date ].<sup>101</sup> Documentation provided for Entry 2297 contained a purchase order from Lighthouse Rock to [ company ] dated [ date ], which is later than [ company ] invoice to Lighthouse Rock dated [ date ].<sup>102</sup>

### *[ company ] Response*

According to its May 7, 2024 RFI response, [ company ] served as the freight forwarder for the shipments related to the EAPA investigation, but did not arrange the ocean freight, nor was it the carrier for the shipments in question.<sup>103</sup> [ company ] received the customs broker's power of attorney ("POA") from Lighthouse Rock, allowing the broker, [ company ], to make entry.<sup>104</sup> [

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<sup>93</sup> See Lighthouse Rock's Supplemental RFI Response at 3. Lighthouse Rock had [ # ] entries during the POI.

<sup>94</sup> See Lighthouse Rock's RFI Response at 14; Lighthouse Rock's Supplemental RFI Response at 3.

<sup>95</sup> See Lighthouse Rock's Supplemental RFI Response at 3.

<sup>96</sup> *Id.* at 4.

<sup>97</sup> *Id.* Lighthouse Rock stated that it invoiced and received payment in the amount of [ # ] from [ company ] and remitted the amount to [ company ].

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> See [ company ] RFI Response, dated May 7, 2024.

<sup>104</sup> *Id.*

[ company ] stated it was not involved in the purchase of xanthan gum, and that the majority of the documentation relating to the transactions came from [ company ].<sup>105</sup>

Invoices for xanthan gum purchases relating to Entry 2297 submitted in [ company ] response had contradictory dates than what was provided by Lighthouse Rock in its RFI response.<sup>106</sup> Lighthouse Rock submitted an invoice from [ company ] to Lighthouse Rock dated [ date ], while [ company ] submitted an invoice from [ company ] to Lighthouse Rock dated [ date ].<sup>107</sup>

### *[ company ] Response*

According to the broker's May 10, 2024, response, [ company ] introduced Lighthouse Rock to the broker, [ company ].<sup>108</sup> According to [ company ], Lighthouse Rock gave it the POA and provided authorization to transact customs business on its behalf.<sup>109</sup>

The invoice for xanthan gum for Entry 2297 submitted by [ company ] in its response, also had contradictory dates than those provided by Lighthouse Rock.<sup>110</sup> An invoice from [ company ] to Lighthouse Rock is dated [ date ], while [ company ] submitted an invoice from [ company ] to Lighthouse Rock dated [ date ], same date as the invoice submitted by [ company ].<sup>111</sup>

No party to the investigation submitted written arguments.

### **Analysis as to Evasion**

Under 19 U.S.C. § 1517(c)(1)(A), to reach a determination as to evasion, CBP must “make a determination, based on substantial evidence, with respect to whether such covered merchandise entered into the customs territory of the United States through evasion.” Evasion is defined as “the entry of covered merchandise into the customs territory of the United States for consumption by means of any document or electronically transmitted data or information, written or oral statement, or act that is material and false, or any omission that is material, and that results in any cash deposit or other security or any amount of applicable antidumping or countervailing duties being reduced or not being applied with respect to the covered merchandise.”<sup>112</sup>

### *Adverse Inferences*

In making an evasion determination, EAPA provides CBP the authority to “collect such

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<sup>105</sup> *Id.* Lighthouse Rock indicated that its relationship was with [ company ] and not [ company ]. Lighthouse Rock never explained why it would act as an IOR for [ company ].

<sup>106</sup> *Id.*

<sup>107</sup> *Id.* See also Lighthouse Rock's RFI Response at Appendix VI.

<sup>108</sup> See [ company ] RFI Response, dated May 10, 2024.

<sup>109</sup> *Id.*

<sup>110</sup> *Id.* See also Lighthouse Rock's RFI Response at Appendix VI.

<sup>111</sup> *Id.*

<sup>112</sup> See 19 C.F.R. § 165.1.

additional information as is necessary to make the determination through such methods as the Commissioner considers appropriate, including by . . . issuing a questionnaire with respect to such covered merchandise to” the importer alleged to have engaged in evasion and the foreign producer or exporter of the covered merchandise.<sup>113</sup> Furthermore, an adverse inference may be used by CBP with respect to the U.S. importer or foreign producer or exporter “without regard to whether another person involved in the same transaction or transactions under examination has provided the information sought . . . .”<sup>114</sup>

Under 19 U.S.C. § 1517(c)(3)(A), if CBP finds that a party “has failed to cooperate by not acting to the best of the party or person’s ability to comply with a request for information, {CBP} may, in making a determination {of evasion}, use an inference that is adverse to the interests of that party or person in selecting from among the facts otherwise available to make the determination.” Additionally, the EAPA regulations provide that if “the importer, or the foreign producer or exporter of the covered merchandise fails to cooperate and comply to the best of its ability with a request for information made by CBP, CBP may apply an inference adverse to the interests of that party in selecting from among the facts otherwise available to make the determination as to evasion . . . .”<sup>115</sup>

As explained above, CBP provided Swastik Gum, Jay Dinesh, and their purported [ business relationship ], [ company ], with multiple opportunities to respond to their respective RFIs, but none of these companies submitted a response to CBP. Accordingly, CBP determines that these companies failed to act to the best of their abilities in this EAPA investigation by their lack of cooperation and responsiveness to CBP’s RFIs. Because of their failure to respond to the RFIs, the record lacks information directly from these companies pertaining to their corporate structure and affiliations, accounting and financial practices, and the production, sale, and exportation of xanthan gum imported into the United States. Due to the lack of information on the record from Swastik Gum, Jay Dinesh, and [ company ], CBP was not able to conduct an on-site verification of any purported xanthan gum production in India or determine that Lighthouse Rock’s entries of xanthan gum originated from India. Therefore, CBP is drawing inferences adverse to Swastik Gum, Jay Dinesh, and [ company ] and will select from among the facts otherwise available to make the determination as to evasion.

In selecting from among the facts otherwise available and applying adverse inferences, CBP is relying on information from the Allegation and supplements to the allegation, publicly available information on Swastik Gum’s, Jay Dinesh’s and Chinese xanthan gum producers’ websites, and Lighthouse Rock’s CF-28 responses and supplemental CF-28 responses. Specifically, CBP is relying on the information detailed below that demonstrates a lack of xanthan gum production by Swastik Gum, Jay Dinesh, and their alleged [ business organization and company ] in India.

Information in the Allegation establishes that xanthan gum is not manufactured in India. Rather, the affidavit from a Senior Director at CP Kelco and the USITC report on xanthan gum from

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<sup>113</sup> See 19 U.S.C. § 1517(c)(2); see also 19 C.F.R. § 165.5(a).

<sup>114</sup> See 19 U.S.C. § 1517(c)(3)(B) and 19 C.F.R. § 165.6(c).

<sup>115</sup> See 19 C.F.R. § 165.6(a).

China both affirm that xanthan gum is only produced in Austria, France, China, and the United States.<sup>116</sup> In addition, supplements to the allegation contain printouts from Jay Dinesh’s website displaying pictures of packaged xanthan gum with the name “Deosen.”<sup>117</sup> As the Allegor points out, Deosen is a known Chinese manufacturer and exporter of xanthan gum.<sup>118</sup>

Publicly available information that CBP placed on the record from a second Jay Dinesh website shows that it advertises two xanthan gum products that originate from Chinese manufacturers.<sup>119</sup> For the first product, “Xanthan Gum Powder,” pictures on the website depict packaging with the markings “Produce by Fufeng,” “Country of Origin CHINA,” and “www.fufeng-group.com,” and the associated product brochure consists of a certificate of analysis from Shandong Fufeng Fermentation Co., Ltd. for xanthan gum food grade 200 mesh.<sup>120</sup> For the second product, “Deson {sic} Xanthen {sic} Gum,” pictures show packaging with the names “Deosen” and “Deosen Biochemical (Ordos) Ltd.,” and the accompanying product brochure consists of a certificate of analysis for xanthan gum 200 mesh from Deosen Biochemicals (Ordos) Ltd.<sup>121</sup> Publicly available information that CBP also placed on the record from Deosen’s website and Fufeng Group’s LinkedIn page demonstrates that both companies are located in China.<sup>122</sup> In short, this information shows that Jay Dinesh Chemicals sells xanthan gum obtained from Chinese producers. Swastik Gum advertises its products through Indiamart’s website,<sup>123</sup> and photos and product details indicated Swastik offers food grade xanthan gum in 25kg box/bag from Chinese producers Fufeng and Meihua.<sup>124</sup>

Accordingly, in applying an inference adverse to Swastik Gum, Jay Dinesh and [ company ] and selecting from among the facts otherwise available in making the determination as to evasion, CBP determines that these companies do not manufacture any xanthan gum in India and that all of Lighthouse Rock’s entries of xanthan gum consist of merchandise that was produced in China and transshipped through India.

While CBP is not applying an adverse inference with respect to Lighthouse Rock, CBP finds the record contains evidence which demonstrates that there is substantial evidence of evasion. Lighthouse Rock admits to having no prior knowledge about Jay Dinesh, Swastik Gum or [ company ]. Moreover, Lighthouse Rock did not provide information on how it developed a relationship with the seller [ company ], or how it came to agree to help with the sale of xanthan gum after the deal with [ company ] fell through. Neither Lighthouse Rock, [ company ], Jay Dinesh, Swastik nor [ company ] provided evidence that the xanthan gum production documentation corresponds with any of the shipments covered by this investigation. As noted

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<sup>116</sup> See Allegation at Attachments 8 and 9.

<sup>117</sup> See Second Supplement to Allegation at 4 and Attachment 5.

<sup>118</sup> *Id.* at 4. and Attachment 6 (containing *Xanthan Gum from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2020-2021*, 88 Fed. Reg. 9,861) (Dep’t Commerce, Feb. 15, 2023).

<sup>119</sup> See Memo to the File March 3 at Attachment 1.

<sup>120</sup> *Id.*

<sup>121</sup> *Id.*

<sup>122</sup> *Id.* at Attachments 2 and 3, respectively.

<sup>123</sup> See Memo to the File March 5 at Attachment 3.

<sup>124</sup> *Id.*

above, the output quantities in the documentation provided appear to be significantly smaller than the shipment quantities in question.

In EAPA investigation 7841 on October 24, 2024, CBP found that substantial evidence demonstrated that Jay Dinesh transshipped Chinese-origin xanthan gum through India which was entered in the United States by BMF Imports as Indian-origin xanthan gum to evade AD duties.<sup>125</sup> Thus, Jay Dinesh has been found by CBP to have engaged in AD duty evasion with respect to xanthan gum on a previous occasion.

[ company ], according to Lighthouse Rock, reported that [ company ] is a [ business organization and companies ]. The relationship between these Indian manufacturers was for [ business relationship description ]; thus, the certificates of origin submitted by Lighthouse Rock in its RFI responses do not appear to be genuine. Lighthouse Rock admits to having no confidence in the validity of any of the documentation provided during the investigation. Failing to perform its due diligence, Lighthouse Rock further agrees that it cannot attest to the true nature of the relationships between the parties.

Furthermore, as explained above, information from Jay Dinesh's and Swastik Gum's websites establishes that Jay Dinesh and Swastik Gum sourced xanthan gum from Chinese producers. Thus, CBP finds there is substantial evidence on the record of this investigation that Lighthouse Rock entered xanthan gum from Jay Dinesh and Swastik Gum that was manufactured in China and transshipped through India. Evidence on the record of this investigation supports a determination that Lighthouse Rock's imports were covered merchandise entered through evasion, resulting in the avoidance of applicable AD duties.

### **Determination as to Evasion**

The previously discussed facts on the record establish that there is substantial evidence that Chinese-origin xanthan gum was imported into the United States by evasion, specifically via transshipment through India. The xanthan gum that Lighthouse Rock entered from Jay Dinesh and Swastik Gum during the POI is covered by the *Order* on xanthan gum from China. Because Lighthouse Rock did not declare that the merchandise was covered by the *Order* on entry, the requisite cash deposits were not collected on the merchandise at the onset of this investigation.

### **Actions Taken Pursuant to the Affirmative Determination as to Evasion**

In light of CBP's determination that substantial evidence demonstrates that Lighthouse Rock entered covered merchandise into the customs territory of the United States through evasion, and pursuant to 19 U.S.C. § 1517(d) and 19 C.F.R. § 165.28, CBP will suspend or continue to suspend the entries covered by this investigation, until instructed to liquidate. For those entries previously extended in accordance with interim measures, CBP will rate adjust and change those entries to type 03 and continue suspension until instructed to liquidate these entries. CBP may also evaluate the Importer's continuous bonds in accordance with CBP's policies. None of the

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<sup>125</sup> See EAPA 7841 - Notice of Determination as to Evasion, dated October 24, 2024.

above actions precludes CBP or other agencies from pursuing additional enforcement actions or penalties.

Sincerely,

A handwritten signature in black ink, appearing to be 'KH', with a long horizontal stroke extending to the right.

Kristina Horgan  
Acting Director, Enforcement Operations Division  
Trade Remedy Law Enforcement Directorate  
Office of Trade