

## Section iv

### Roundtable Facilitator's Message

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**Jerry's message** DPR and the County Agricultural Commissioners and Sealers Association diligently pursued a mechanism to fill the penalty violation void between a violation notice and prosecution by the district attorney. Serious violations were often too egregious for a violation notice, but did not necessarily warrant criminal action by the district attorney. In some instances, serious violations or repeated violations were not prosecuted.

After many meetings between DPR and the commissioners, as well as the regulated industry and concerned groups, the Legislature authorized the administrative civil penalty processes in use today.

We will always be concerned with certain fundamental matters, specifically relating to integrity, fairness and justice.

- Can a Hearing Officer affiliated with the County Agricultural Commissioner's Office adhere to a high moral principle and maintain a professional standard?
- Can the Hearing Officer be unbiased, impartial, fair and reasonable?
- In addition, will an appeal of the Commissioner's decision by the Director of DPR be unbiased, impartial, fair and reasonable?

The system has maintained its integrity, fairness and adherence to high moral principles and professional standards. Simply stated, when the evidence presented satisfies the elements of the alleged violation as well as the fine classification for that violation, the proposed penalty was upheld. When the evidence does not support the alleged violation, the proposed penalty is dismissed. If an error in judgment occurs during the hearing process, the appeal to DPR results in a second review using similar standards.

Although the system has maintained its integrity, some persons occasionally feel they have been treated unfairly. In most of these instances, emotions expressed by county and/or DPR staff, and/or the alleged violator, inaccurately created a perception that the system is less than fair. The perceptions of all parties, whether accurate or inaccurate, are important because they go back to the concerns voiced before implementation of this process.

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## Roundtable Facilitator's Message, Continued

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**Jerry's message**  
(continued) As the issues become more complex and their outcome potentially more severe, it is important to maintain all the skills necessary to provide a fair process, from investigative techniques and case preparation, to advocate presentation and Hearing Officer decisions. Enhance your skills by attending discussions, workshops or training, and stay familiar with the Sourcebook and appeal decisions. The administrative civil process is important and will continue to be a necessary component of violation actions.

*Gerald (Jerry) A. Benincasa*

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