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**FOR IMMEDIATE RELEASE**

**LOS ANGELES, (Aug. 7, 2013)** – A federal judge in New York has granted a motion to dismiss a lawsuit filed by a shareholder of Dole Food Company, Inc. over the sale of company stock.

The Hon. Paul A. Engelmayer of the United States District Court for the Southern District of New York on Tuesday granted the motion in the complaint against Dole’s Chairman of the Board and CEO David H. Murdock, and Dole.

The complaint alleged that Murdock violated § 16(b) of the 1934 Securities Exchange Act by realizing short-swing profits when he purchased Dole shares within a six-month window of the settlement date of a Forward Purchase Agreement (FPA) he had entered into about three years prior. In connection with the FPA, Murdock delivered shares of Dole and received almost \$228 million. Separate from that transaction — but within six months of its settlement date — Murdock made other purchases of Dole stock, and earned profits of about \$3.4 million.

§ 16(b) prohibits certain corporate insiders from using non-public information to speculate in the stock of corporations where they owe fiduciary duties, and requires disgorging any profits earned from “matching” purchases and sales within a six-month period. There is no need to allege or prove actual use of insider information — it is a strict liability provision.

The central question in this case was whether settlement of the FPA counted as a “purchase” or as a “sale” of Dole stock. If it was a “sale” then some portion of it would improperly “match” the purchases he made within the preceding six-months. As the Court bottom-lined it, if the acquisition of the FPA is the relevant sale date (in 2009), then Murdock is not liable. But if the settlement of the FPA is the relevant sale date (in 2012), then Murdock is liable.

The Court concluded that acquisition date represented the sale — on “the day he enters the agreement, the die is cast — *alea iacta est.*”

Murdock was represented by Peter M. Stone and James B. Worthington of Paul Hastings. Dole was represented by Garland A. Kelley of Glaser Weil.

Donoghue was represented by David Lopez of the Law Office of David Lopez and by James A. Hunter of Hunter & Kmiec.

**About Glaser Weil**

*Glaser Weil is a full service law firm in Los Angeles, California. Formed in 1988, the Firm’s clientele includes a diverse mix of international, national and local corporations and private entrepreneurs throughout the nation.*