PREPARED STATEMENT OF

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BEFORE THE

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

COMMITTEE ON ENERGY AND COMMERCE

U.S. HOUSE OF REPRESENTATIVES

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INTRODUCTION

Good morning Mr. Chairman and members of the Subcommittee. My name is Martin Kanan and I am President and CEO of Kanan Enterprises, Inc. Since 1989, Kanan Enterprises, my family owned business, has done business as King Nut Company. We are proud that the operating companies that my family now owns started in 1927 and 1937 in Cleveland, Ohio. We are a leading national supplier of snack nuts and other items to airline, retail, vending, food service, gift and private label industries.

I understand that today's hearing is to investigate the safety of the nation's food supply and specifically to examine the recent *Salmonella* outbreak associated with peanut products manufactured by the Peanut Corporation of America (PCA). Let me begin by stating something that you've heard many times before from others in the food industry, and will hopefully hear many times in the future: The health and safety of those who consume our products is our first priority. Food safety is paramount.

That is why Kanan Enterprises has always and will always regularly review and analyze its processes, procedures, plans and actions to identify lessons learned and areas for improvement. Such continuous improvement is how Kanan Enterprises grew from 25 employees in 1989 to almost 200 today. Our union run facilities, by the proud Teamsters Union, produce nearly 500 million bags of product per year. None of which is associated with this outbreak. With the growth in volume of product, we also grew in our sophistication on other aspects of the business. However, we have never lost sight and we will never loose sight that the key to longevity is producing safe, wholesome, quality food items.

The recent Salmonella outbreak is a tragedy for all of the victims, their families and the food industry. Thus, I will share with this subcommittee our relationship with Peanut Corporation of America and our role in being the first to recall PCA's peanut butter.

RELATIONSHIP WITH PEANUT CORPORATION OF AMERICA

As our business expanded, our foodservice customers began asking us if we would supply them with peanut butter. Our customers wanted industrial sized peanut butter, 5 lb and 35 lb containers. However, we are not a peanut butter manufacturer. To help us find a peanut butter manufacturer, we enlisted one of our long standing peanut brokers and asked that our broker find a peanut butter manufacturer that would "private label" the finished product for us. Private labeling for us meant that the manufacturer would sell us a high quality, finished, sealed product packaged with our label in a closed and finished case. Kanan would not manufacture, process or package the peanut butter.

Our first supplier of peanut butter had issues meeting a good consistency in the product, so our customers asked us to change. In early 2004, our peanut broker then presented PCA to us. In the peanut products industry, PCA is very well known and PCA had supplied, among others, a world leading food manufacturer. In 2004, PCA started as King Nut's private labeler. Over the years,

PCA private labeled King Nut's 5 lb creamy and crunchy peanut butter. Kanan also purchased from PCA, Parnell's Pride which is a 35 lb creamy peanut butter.

Throughout the 5 years of doing business with PCA, we received PCA's specification sheets for the products. The specification required, among many other microbiological requirements, no Salmonella to be present in the product, which we understood would be confirmed by testing. We've learned that contamination of peanut butter with *Salmonella* is usually an issue of recontamination after the roasting process. Such contamination would normally be dealt with through the application of GMP measures including sanitation and separation of finished product from raw materials.

In addition to product specification sheets, we received several Continuing Pure Food Guarantees from PCA. These Guarantees affirmatively stated that PCA guaranteed that any product shipped by PCA to Kanan was produced in accordance with good manufacturing practices, was unadulterated, safe and free of any substance which was in any way injurious. These Continuing Pure Food Guarantees were backed up by certificates of insurance, a Total Quality Systems Audit Report Summary, a letter from Stewart Parnell, PCA's President, extolling a Superior Rating from A.I.B. (American Institute of Baking) and assurances that PCA had a HACCP food safety plan in place. Late in the relationship, we received Certificates of Analysis or COA's. These COA's showed negative results for *Salmonella*.

At the end of 2008, Kanan distributed the PCA-manufactured and packaged peanut butter to seven foodservice distributors. Kanan never opened or altered the sealed containers of peanut butter. We did not suspect any health, safety or quality issues existed with PCA product until we were contacted on January 7, 2009, by the Minnesota Department of Agriculture.

RECALL

We were the first in the United States to do a voluntary recall for any product associated with the recent *Salmonella* outbreak. The timeline on the recall began with a call from the Minnesota Department of Agriculture. On Wednesday, January 7, 2009, they informed us that they were investigating *Salmonella* incidents and wanted to know who manufactured the King Nut peanut butter. We told them that it was PCA. We contacted the broker for PCA and requested that PCA be informed of the investigation into the product. In response, Stewart Parnell, President of PCA, let us know that he had no knowledge of any *Salmonella* issue.

On Thursday, January 8, 2009, FDA investigators came to our facilities and stated they were in the early stages of investigation. We produced the bills of lading and the COA's from PCA for the peanut butter and they inventoried the lots of peanut butter we had in our warehouse. At that time we requested the FDA take samples of the peanut butter to test, but they declined to take test samples. Therefore, on that same day, we sent samples of the lots of peanut butter that we had in our warehouse to be tested for salmonella. On January 8, 2009, we also received a second call from the Minnesota Department of Agriculture informing us that peanut butter was a possible suspect and that samples from an open container had been sent for testing.

On Friday, January 9, 2009, the FDA investigators returned to our facility and we again answered questions regarding who manufactured the peanut butter. We informed them that we did not use peanut butter in any of the products we manufactured. Several hours later, the FDA investigators took samples of the peanut butter in our warehouse for testing.

At 4:30 pm on Friday, January 9, 2009, we received news from the Minnesota Department of Agriculture that the sampling from the open container of peanut butter had a presumptive positive for *Salmonella* and that the sub-type would not be confirmed until the following week. Even though it was a single open container and even though it was only a presumptive positive, my company took this very seriously. We wanted to protect the public. We did not want to wait for PCA to initiate a recall.

Prior to noon on Saturday, January 10, 2009, we initiated the first product recall related to the *Salmonella* outbreak. We recalled all of the PCA peanut butter that King Nut distributed in 2008, both King Nut and Parnell's Pride labels. Again, even though we were only a distributor, we did the recall without PCA as we believed it was the right thing to do. Our biggest concern was for the health and safety of the consumers of the products.

Under our recall system, we are able to communicate with our customers within approximately 45 minutes. All of our customers, the 7 foodservice distributors, were aware of the recall by the afternoon of January 10. On January 10, 2009, we also issued a nationwide press release as we did not know who might be the ultimate end consumer of the product.

On Monday, January 12, 2009, FDA investigators again came to gather more information about the recalled peanut butter and we provided them with all records they requested. We were also called and informed that 4 of the 13 samples from the open container of peanut butter in Minnesota had tested positive for *Salmonella* Typhimurium. This confirmed that our quick reaction to the presumptive positive was the right thing to do.

On January 13, 2009, PCA initiated a voluntary recall of certain lots of peanut butter and peanut paste produced on or after July 1, 2008, due to the risk of *Salmonella* contamination. As this SubCommittee is aware, PCA's recall has been expanded several times.

On January 29, 2009, we along with those in our industry and the consumers were shocked and dismayed at the findings that reported PCA knowingly released product with potential *Salmonella* contamination into the food supply.

The test results from our January 8 samples showed no *Salmonella* in the product. To this day, we have not been informed by the FDA or anyone else what the test results showed from the samples the FDA investigators took on January 9 from our warehouse.

RECOMMENDATIONS

The issue of food safety and the questions concerning the breakdowns in the food safety system have brought into question whether America's food supply is safe. This question is much broader than the recent *Salmonella* outbreak associated with PCA's peanut products. While I believe that the American food supply is one of the safest in the world, Kanan Enterprises continues to be committed to work to rebuild public confidence in the American food safety system, including both governmental oversight and manufacturing accountability. I want the food safety system to work and I want to be part of making things better for our country's food supply.

In the specific case of PCA, however, Kanan Enterprises must reiterate that it did not have control over the production or processing of the product, PCA did. PCA had guaranteed Kanan that its peanut butter would not have *Salmonella*. While most food manufacturers practice safe production, storage and handling of food ingredients, it is apparent that if someone lacks integrity and honesty they will be able to find ways to bypass any quality control or food safety system. I believe any system created by Congress will necessarily have to keep the public confidence by showing that even if something does go terribly wrong, the system reacts to correct it swiftly and punishes the wrong doer.

Food manufacturers bear the responsibility of safe food. As a responsible food manufacturer. I abide by the rules and expect all to abide by the rules.

CONCLUSION

This is a tragedy for all those involved - the victims, their families and our industry. Even though we would not have wanted to be thrown into this spotlight, I thank you for the opportunity to discuss these issues with you and would be happy to answer any question that you have.