

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:) P. & S. Docket No. D-08-0034
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D.A. Upton,)
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Respondent) Decision Without Hearing
By Reason Of Consent

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.), (hereinafter “the Act”), by a Complaint filed on December 18, 2007, by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that Respondent willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 et seq.). Respondent filed an Answer on January 14, 2008, admitting the jurisdictional allegations of the Complaint, and generally denying all other allegations.

The parties have now agreed to the entry of a Decision Without Hearing by Reason of Consent as set forth herein. This Decision is entered pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 et seq.; hereinafter “Rules of Practice”) applicable to this proceeding (7 C.F.R. § 1.138).

Respondent admits the jurisdictional allegations in paragraph I of the Complaint and specifically admits that the Secretary has jurisdiction in this matter, neither admits nor denies the

remaining allegations, waives oral hearing and further procedure, and consents and agrees, for the purpose of settling this proceeding, to the entry of this decision.

Findings of Fact

(1) D.A. Upton, hereinafter referred to as Respondent, is an individual doing business in the State of New Mexico. Respondent's business mailing address is P.O. Box 93, Clovis, New Mexico 88102.

(2) Respondent is, and at all times material herein, was:

(a) Engaged in the business of a dealer buying and selling livestock in commerce for his own account;

(b) Registered with the Secretary of Agriculture as a dealer buying and selling livestock.

Order

Respondent, his agents and employees, directly or through any corporate or other device, in connection with his activities subject to the Packers and Stockyards Act, shall cease and desist from failing to pay, when due, for livestock.

The provisions of this order shall become final and effective upon its issuance.

Copies of this decision shall be served upon the parties.


For D.A. Upton
Marion Rutter, Esq.
Attorney for Respondent


Christopher Young-Morales, Esq.
Attorney for Complainant

Issued in Washington, D.C.
this 17th day of July, 2008


Marc R. Hillson
Chief Administrative Law Judge