

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P. & S. Docket No. D-07-0101
)
James Gary Tankersley)
d/b/a Express Meats,)
)
Respondent)
) Consent Decision and Order

This disciplinary proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.; hereinafter “Act”), by a Complaint and Notice of Hearing filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture (hereinafter “Complainant”), alleging that Respondent James Gary Tankersley d/b/a Express Meats (hereinafter “Respondent”) has willfully violated the Act and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.; hereinafter “Regulations”). The Consent Decision is entered pursuant to the consent decision provision (7 C.F.R. § 1.138) of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130-1.151; hereinafter, “Rules of Practice”).

Respondent admits the jurisdictional allegations in paragraph I of the Complaint and Notice of Hearing 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, and for such

purpose only, to the entry of this Consent Decision.

Complainant agrees to the entry of this Consent Decision.

Findings of Fact

1. Respondent is an individual doing business in the State of Georgia with a mailing address of 243 Mountain View Drive, Gainesville, GA 30506.
2. At all times material herein Respondent was:
 - (a) Engaged in the business of purchasing livestock in commerce for purposes of slaughter; and
 - (b) A packer within the meaning of and subject to the provisions of the Act.

Conclusions

Respondent having admitted the jurisdictional facts and the parties having agreed to the entry of this Consent Decision, the Consent Decision will be entered.

Order

Respondent James Gary Tankersley d/b/a Express Meats, directly or through any corporate or other device, in connection with his activities subject to the Act, shall cease and desist from failing to pay, when due, the full purchase price of livestock, as required by the Act and the Regulations; and

Respondent shall keep accounts, records, and memoranda which fully and correctly disclose all transactions involved in his business as packer as required by section 401 of the Act (7 U.S.C. § 221), including, but not limited to, any written agreements relating to waiver of the prompt payment provisions of the Act as required by section 409(b) (7 U.S.C. § 228b(b)).

In accordance with section 203(b) of the Act, (7 U.S.C. § 193(b)), Respondent is

assessed a civil penalty in the amount of two thousand five hundred dollars (\$2,500.00) to be paid in accordance with the provisions of the Understanding with Respect to Civil Penalty entered into by the parties.

This Order shall have the same force and effect as if entered after a full hearing. The provisions of this Order shall become final and effective upon its issuance.

Copies of this Consent Decision and Order shall be served upon the parties.

Issued in Washington, D.C.

this 30th day of June, 2008



Administrative Law Judge



James Gary Tankersley
Respondent

6/24/08



Gary F. Ball
Attorney for Complainant