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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:)	P & S Docket No. D-11-0130
Victor Peak,)	
Peak Livestock Co., LLC)	
)	
Respondent)	Decision Without Hearing By Reason of Consent

This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*) (Act), by a Complaint filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that the Respondent willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 *et seq.*) (Regulations). This consent decision is entered pursuant to the consent decision provision of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.138) (Rules of Practice).

The Respondent admits the jurisdictional allegations in paragraph 1 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 and for such purpose only, to the entry of this consent decision.

Complainant agrees to the entry of this consent decision.

Findings of Fact

(a) Victor Peak, d/b/a Peak Livestock Co., L.L.C., (Respondent) is an individual whose business mailing address is 502 Albert Street, Emporia, Kansas 66801.

(b) Respondent, at all times material herein, was:

1. Engaged in the business of buying and selling livestock in commerce for its own account or for the account of others;
2. Not registered as a dealer or a market agency with the Secretary of Agriculture;¹ and
3. Operating as a dealer within the jurisdiction of the Secretary.

Conclusion

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, his agents and employees, directly or through any corporate or other device, in connection with his operations subject to the Act, shall cease and desist from:

- (1) Engaging in operations subject to the Act without being properly registered with the Secretary of Agriculture and without first obtaining the requisite bond or bond equivalent;

¹ Respondent was the owner and alter ego of TAB Cattle, which was registered with Complainant as a dealer. On September 5, 2006, Respondent stated that he had discontinued livestock operations, and his registration was made inactive.

- (2) Issuing checks in payment for livestock without having and maintaining sufficient funds on deposit and available in the bank account upon which they are drawn to pay such checks when presented;
- (3) Failing to pay, when due, the full purchase of livestock; and
- (4) Failing to pay the full purchase price of livestock.

Respondent is assessed a civil penalty in the amount of Five Thousand Two Hundred Fifty Dollars (\$5,250.00) to be paid in accordance with the terms stated in the Understanding Regarding Suspension and Civil Penalty Terms. Respondent is prohibited from engaging in business subject to the Act for a period of three hundred (300) days and continuing thereafter until the Respondent demonstrates to the Packers and Stockyards Program that he is in full compliance with the Act, the Regulations, the Understanding Regarding Suspension and Civil Penalty Terms accompanying this order, and this order, including payment of the civil penalty imposed herein.

This Order shall have the same force and effect as if entered after full hearing. The provisions of this Order shall become final and effective upon issuance (7 C.F.R. § 1.138).

Copies of this decision and order shall be served upon the parties.

Done at Washington, D.C.

this 7th day of December, 2011


Administrative Law Judge

[Redacted]

Stanley E. Oyler
Attorney for Respondent

[Redacted]

Ciarra A. Toomey
Attorney for Complainant