

United States Department of Agriculture
 Before the Secretary of Agriculture

2012 FEB 29 AM 9:48

In re:) Docket No. D-11-0402
)
)
 Josephine E. Bonaccurso Inc.,)
 d.b.a. Salem Packing Co., and)
 Samuel Bonaccurso)
)
) Consent Decision

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This is a disciplinary proceeding under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.) (Act). On October 6, 2011, an Amended Complaint and Notice of Hearing (Complaint) was issued against Respondents Josephine E. Bonaccurso Inc., d.b.a. Salem Packing Co., and Samuel Bonaccurso (Respondents) alleging that on two dates in 2010, and on one date in 2011, Respondents were insolvent, and that from October 10, 2007 to July 23, 2010 and later, as of April 16, 2011, Respondents had failed to pay, when due, for over \$700,000 of livestock. The Amended Complaint further alleged that Salem Packing's financial condition did not meet the requirements of the Act as supplemented (7 U.S.C. § 204) and the regulations promulgated under it (9 C.F.R. § 203.10), and Respondents have willfully violated sections 202(a) and 409 of the Act (7 U.S.C. § 192(a), 228b) and section 201.43 of the regulations (9 C.F.R. 201.43).

Complainant and Respondent have now agreed to entry of this Decision, without hearing or further procedure, 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. § 1.138).

Respondents admit the jurisdictional allegations in paragraph I of the Complaint and specifically admit that the Secretary has jurisdiction in this matter; neither admit nor deny the remaining allegations; waive oral hearing and further procedure; and consent and agree, for the purpose of settling this proceeding and for such purpose only, to the entry of this Decision.

Findings of Fact

1. Josephine E. Bonaccurso Inc., d.b.a. Salem Packing Co., (Salem Packing) is a corporation with a mailing address of P.O. Box 131, Salem New Jersey 08079 and its principal place of business at 705 Salem Quinton Road, Salem, New Jersey 08079.

2. Salem Packing is a packer operating in commerce subject to the provisions of the P&S Act, 7 U.S.C. § 181 *et seq.*

3. Samuel Bonaccurso is:

- 100% JG RNA SB
- a. the president and ~~48%~~ 100% shareholder of Salem Packing,
 - b. responsible for the purchase of all livestock and responsible for the payment of all debts,
 - c. operates Salem Packing his alter ego, and

d. is a packer as defined in 7 U.S.C. § 191.

4. Josephine E. Bonaccurso, is the mother of Samuel Bonaccurso and is ^a ~~the~~ 51% shareholder of Salem Packing.

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Conclusions

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


Order


Respondents, their agents and employees, directly or through any corporate or other device, in connection with Respondents' activities subject to the Packers and Stockyards Act, shall cease and desist from:


- (1) purchasing livestock except under the condition that Respondents must deliver to the seller or his duly authorized representative the full amount of the purchase by payment in United States currency, certified check, or by wire transfer before the close of the next business day following the purchase of livestock and transfer of possession, and such condition shall continue until application of the Packers and Stockyards Administration for a supplemental order modifying the condition; and,
- (2) failing to pay, when due, the full amount of the purchase price of livestock as required by Section 409 of the Act (7 U.S.C. § 228b).

In accordance with section 203(b) of the Act, (7 U.S.C. § 193(b)),
Respondents are hereby assessed a civil penalty of nineteen thousand five
hundred dollars (\$19,500) in accordance with the terms of the
"Understanding Regarding Consent Decision" entered between the parties.

Copies of this Decision and Order shall be served on the parties. The
provisions of this Order shall become effective upon issuance.


Respondent Samuel Bonaccurso,
President, Respondent Josephine E. Bonaccurso, Inc.


Robert N. Agre, Esq.
Attorney for Respondents


Jonathan D. Gordy
Attorney for Complainant

Issued in Washington D.C.
this 28th day of February 2012


ADMINISTRATIVE LAW JUDGE