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UNITED STATES DEPARTMENT OF AGRICULTURE 2012 MAR 22 AM 10:38

BEFORE THE SECRETARY OF AGRICULTURE RECEIVED

In re:) P & S Docket No. D-12-0050
)
 North American Bison Cooperative,)
)
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 and)
)
)
 North Dakota Natural Beef, LLC,)
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)
)
 Respondents) Consent Decision and Order

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. §§ 181 et seq.), 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 respondents North American Bison Cooperative and North Dakota Natural Beef, LLC, willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. §§ 201.1 et seq.). This decision is entered pursuant to the consent decision provision of the rules of practice applicable to this proceeding (7 C.F.R. § 1.138).

The 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.

The complainant agrees to the entry of this decision.

Findings of Fact

- (1) Respondent North American Bison Cooperative is a cooperative organized under the laws of the State of North Dakota, with its principal place of business located at 1909 Great Northern Drive, Fargo, ND, 58102.
- (2) Respondent North Dakota Natural Beef, LLC, also known as Dakota Farms, is a business organized under the laws of the State of North Dakota, with its principal place of business located at 1909 Great Northern Drive, Fargo, ND, 58102.
- (3) Respondent North American Bison Cooperative has a controlling ownership interest in respondent North Dakota Natural Beef, LLC.
- (4) Respondents at all times material herein:
 - a) Engaged in the business of buying livestock in commerce for the purposes of slaughter;
 - b) Engaged in the business of manufacturing or preparing meat and meat food products for sale or shipment in commerce;
 - c) Had average annual purchases of livestock exceeding \$500,000;
 - d) Operated as packers within the meaning of and subject to the provisions of the Act.

Conclusions

The respondents having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, such decision will be entered.

Order

(1) Respondents, their agents and employees, successors and assigns, directly or through any corporate or other device, in connection with their activities subject to the Act, shall cease and desist from failing to pay and failing to pay, when due, the full purchase price of livestock as required by section 409 of the Act (7 U.S.C. § 228b).


(2) Respondents, their agents and employees, successors and assigns, directly or through any corporate or other device, shall make immediate payment for any and all livestock purchases. Such payment shall only be by United States currency, certified check, or wire transfer until such time as respondents demonstrate to GIPSA that current assets exceed current liabilities.

In accordance with section 203 of the Act (7 U.S.C. § 193), respondents are assessed, jointly and severally, a civil penalty in the amount of One Hundred and Forty Thousand Dollars (\$140,000.00). One Hundred and Twenty-Five Thousand Dollars (\$125,000.00) of the civil penalty will be held in abeyance in accordance with the terms of the "Understanding Regarding Consent Decision" entered between the parties. Respondents' payment of Fifteen Thousand Dollars (\$15,000.00) shall be made by certified funds, payable to the Treasurer of the


United States in three (3) monthly installments of Five-Thousand Dollars (\$5,000), with the first payment to be due immediately and to be sent to Complainant's Counsel, and the following two payments to be paid by the end of each subsequent month. The second and third payments shall be mailed to the following address: USDA, GIPSA, P.O. Box 790335, St. Louis, MO, 63179-0335.

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 on the sixth day after service of this consent decision and order on the respondent.

Copies of this decision shall be served upon the parties.




North American Bison Cooperative
By: Dieter L. Pape, President and C.E.O.
Respondent



North Dakota Natural Beef, LLC
By: Dieter L. Pape, President and C.E.O.
Respondent

Benjamin J. Hasbrouck
Fredrikson & Byron P.A.
Attorney for Respondents


for Krishna G. Ramaraju
Attorney for Complainant


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By: Dieter L. Pape, President and C.E.O.
Respondent

North Dakota Natural Beef, LLC
By: Dieter L. Pape, President and C.E.O.
Respondent

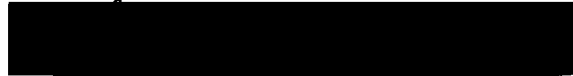


Benjamin J. Hasbrouck
Fredrikson & Byron P.A.
Attorney for Respondents

Krishna G. Ramaraju
Attorney for Complainant

Done at Washington, D.C.

this 22nd day of March, 2012



JKB Janice K. Bullard
Administrative Law Judge

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