

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

2012 JUN -8 PM 1:40

In re:) P & S Docket No. **RECEIVED**
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)
 James M. Brantley,)
 James H. Brantley, d.b.a.)
 Southeastern Provision, LLC)
)
)
 Respondents) Consent Decision

This is a disciplinary proceeding under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.), hereinafter the "Act." On December 20, 2011, an Amended Complaint and Notice of Hearing ("Complaint") was issued against Respondents James M. Brantley, James H. Brantley, d.b.a. Southeastern Provision, LLC (Respondents) alleging that Respondents failed to properly operate their scales in the purchase of livestock in that they failed to: use hooks, rollers, gambrels, and other equipment of uniform weight; have a printing device connected to the scale; have a tare that was based on the average weight of the hooks, rollers, gambrels, and other equipment; pay according to recorded hot weights. Accordingly, the Complaint alleged that Respondents willfully violated sections 202(a) and 409 of the Act (7 U.S.C. § 192(a), 228b) and sections 201.71(b) and 201.99(d) of the regulations (9 C.F.R. §§ 201.71(b), 201.99(d)).

Complainant and Respondents 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. Southeastern Provision, LLC (Southeastern) was a limited liability corporation organized and operating under the laws of Tennessee, which was dissolved by the State of Tennessee as of August 19, 2005. Its business address is 1617 Helton Rd, Bean Station, Tennessee 37708.

2. At all times material to this Complaint and Notice of Hearing, Southeastern was:

- a. A partnership, nominally a limited liability company, wholly owned by James M. Brantley and James H. Brantley;
- b. Engaged in the business of buying livestock in commerce for the purpose of slaughter; and
- c. A packer within the meaning of, and subject to the provisions of, the Act.

3. James M. Brantley is an individual whose business mailing address is 1617 Helton Road, Bean Station, Tennessee 37708.

4. At all times material to this Complaint and Notice of Hearing, Respondent James M. Brantley is:

- a. A 1% owner and partner of Southeastern;
- b. Responsible, as a partner with James H. Brantley, for the operations of Southeastern;
- c. Responsible for the day-to-day management, operation and control of Southeastern; and
- d. A packer within the meaning of, and subject to the provisions of, the Act.

5. James H. Brantley is an individual whose business mailing address is 1617 Helton Road, Bean Station, Tennessee 37708.

6. At all times material to this Complaint and Notice of Hearing, Respondent James H. Brantley is:

- a. A 99% owner and partner of Southeastern
- b. Responsible, as a partner with James H. Brantley, for the operations of Southeastern; and
- c. A packer within the meaning of, and subject to the provisions of, the Act.

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) failing, in connection with its purchase of livestock on a carcass grade and weight basis, to use hooks, rollers, gambrels, and other equipment that were uniform in weight.
- (2) operating a monorail scale in connection with its purchases of livestock without a printing device connected to the scale to record the weights on a scale ticket or other document.
- (3) using a tare that is in excess of the average weight of the hooks, rollers, gambrels, and other equipment used in connection with the weighing of carcasses.
- (4) failing to purchase carcasses paid according to the actual hot weights recorded on the kill sheets when purchasing carcasses on a grade and yield basis.

In accordance with section 203(b) of the Act, (7 U.S.C. § 193(b)),
Respondent is hereby assessed a civil penalty of five thousand dollars
(\$5,000).

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

[Redacted]

Respondent James M. Brantley

[Redacted]

Respondent James H. Brantley

BY

[Redacted]

executor

[Redacted]

Christine Jochim Boote
Attorney for Respondents

[Redacted]

Robert Hibbert
Attorney for Respondents

[Redacted]

Jonathan D. Gordy
Attorney for Complainant

Issued in Washington D.C.
this _____ day of _____,

2012

ADMINISTRATIVE LAW JUDGE