

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P & S Docket No. D-12-0376
))
Stephen Smeal))
))
d.b.a. Fatted Calf Cattle Farms # 6))
))
Respondent) Consent Decision and Order

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. §§ 181 et seq.), by a complaint and order to show cause filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that respondent Stephen Smeal, doing business as Fatted Calf Cattle Farms # 6, willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. §§ 201.1 et seq.), and that his application for registration under the Act should be denied. 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 respondent admits the jurisdictional allegations in paragraph I 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 decision.

The complainant agrees to the entry of this decision.

Findings of Fact

(1) Stephen Smeal is an individual doing business as Fatted Calf Cattle Farms #6 and has a business mailing address of 1203 VZCR 2414, Canton, TX, 75103.

Respondent Stephen Smeal, doing business as Fatted Calf Cattle Farms #6 is, and, at all times material was:

- a. Engaged in the business of buying livestock on a commission basis in commerce; and
- b. Engaged in the business of a dealer buying and selling livestock in commerce.

(2) Respondent was and is not currently registered with the Secretary of Agriculture under the Act and regulations.

(3) On or about March 23, 2012, respondent submitted a completed application for registration with the Secretary of Agriculture as a market agency to buy livestock in commerce on a commission basis and as a dealer to buy and sell livestock in commerce.

Conclusions

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

Order

Respondent Stephen Smeal, doing business as Fatted Calf Cattle Farms #6, directly or through any corporate or other device, in connection with his operations subject to the Act, shall cease and desist from:

1. 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) and section 201.43 of the regulations (9 C.F.R. § 201.43); and
2. Issuing checks in payment for livestock without having and maintaining sufficient funds on deposit and available in the accounts upon which they are drawn to pay such checks when presented.

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), respondent is assessed a civil penalty in the amount of two-hundred thousand dollars (\$200,000.00). Two-hundred thousand dollars (\$200,000.00) of the civil penalty will be held in abeyance in accordance with and pending compliance with the terms of the "Understanding Regarding Consent Decision" entered between the parties. The amount of the civil penalty held in abeyance will be reduced by twenty-thousand dollars (\$20,000.00) each year on July 1st.

After respondent has filed his first monthly report as required by the Understanding Regarding Consent Decision entered into between the parties, respondent's application as a dealer buying and selling livestock in commerce and

as a market agency buying livestock on a commission basis in commerce will be processed in accordance with the "Understanding Regarding Consent Decision".

Upon the acceptance of respondent's application for registration as a dealer buying and selling livestock in commerce and as a market agency buying livestock on a commission basis in commerce, respondent will be suspended as a registrant under the Act for a period of thirty (30) days. However, this period of suspension will be held in abeyance provided that respondent is in compliance with the terms of this Consent Decision and Order and with the Understanding Regarding Consent Decision.

Pursuant to section 303 of the Act (7 U.S.C. § 203), respondent is prohibited from engaging in business subject to the Act without being registered with the Packers and Stockyards Program.

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.

[Redacted]

Stephen Smeal
Doing business as Fatted Calf Cattle Farms # 6
Respondent

[Redacted]

Gerard Eftink
Van Hooser and Eftink, P.C.
Attorney for Respondent

[Redacted]

Krishna G. Ramaraju
Attorney for Complainant

Done at Washington, D.C.

this ____ day of _____, 2012

[Redacted]

Janice K. Bullard
Administrative Law Judge