

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0462

In re: Freightout.com, LLC

and

Lloyd H. Minifie,

Respondents

Default Decision and Order

Preliminary Statement

This disciplinary proceeding under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.), hereinafter the “Act,” was instituted by a complaint filed on June 7, 2012, by the Deputy Administrator, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture. Service of the complaint and a copy of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130), hereinafter the “Rules of Practice,” effectuated by certified mail on June 14, 2012. Respondents were served with the complaint and an accompanying letter from the Hearing Clerk advising the respondents that an answer must be filed within twenty days of service and that failure to file an answer would constitute an admission of all of the material allegations of fact in the complaint and a waiver of Respondents’ right to an oral hearing.

As Respondents failed to file an answer within the time period prescribed by section 1.136 of the Rules of Practice (7 C.F.R. § 1.136), the following Findings of Fact, Conclusions of

Law and Order will be entered pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Freightout.com, LLC is a limited liability company organized under the laws of the State of New Mexico with its principal place of business located in Prescott, Arizona. The registered agent for Freightout.com, LLC is Lloyd H. Minifie. Freightout.com, LLC conducts business as Western Way Custom Meat, LLC and as Western Way Meats.
2. Freightout.com, LLC has a business mailing address in Moriarty, New Mexico.
3. Lloyd H. Minifie is an individual with a business mailing address in Moriarty, New Mexico.
4. Lloyd H. Minifie, with his wife Susan Minifie, at all times material herein was:
 - a. an owner of Freightout.com, LLC.
 - b. responsible for the direction, management and control of the activities and practices of Freightout.com, LLC.
5. Freightout.com, LLC and Lloyd H. Minifie are collectively referred to herein as respondents.
6. Respondents at all times material herein were engaged in the business of buying livestock in commerce for the purpose of slaughter, and of manufacturing or preparing meats or meat food products for sale or shipment in commerce.
7. Respondents at all times material herein were packers within the meaning of and subject to the provisions of the Packers and Stockyards Act.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. Respondents willfully violated sections 202 of the Act (7 U.S.C. § 192) and sections 201.29 and 201.30 of the regulations promulgated thereunder (9 C. F.R. §§ 201.29 and 201.30).
3. Respondents willfully violated sections 202(a) and 409 of the Act (7 U.S.C. §§ 192(a) and 228(b)).

Order

1. 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:
 - a. Failing to pay, when due, the full purchase price of livestock; and
 - b. Failing to pay the full purchase price of livestock.
2. Respondents are hereby jointly and severally assessed a civil penalty in the amount of twenty thousand dollars (\$20,000).
3. Pursuant to the Rules of Practice governing procedures under the Act, this Order shall become final without further proceedings thirty-five (35) days after service hereof, unless appealed to the Secretary by a party to the proceeding within thirty (30) days after service as provided in sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139 and 1.145).

Copies of this Decision and Order shall be served upon the parties.

September 27, 2012

Peter M. Davenport
Chief Administrative Law Judge