

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:) P. & S. Docket No. 12-0578
)
)
Jeffery D. Smith,)
a/k/a Jeff Smith,)
)
)
Dale T. Smith and Sons Packing)
Company, Inc.)
)
)
Webb Livestock, Inc.,)
)
)
Jay Webb,)
)
)
Wayne Bradshaw,) Consent Decision and Order as to
) Respondents Jeffery D. Smith
) a/k/a Jeff Smith and Dale T. Smith
Respondents) and Sons Packing Company, Inc.

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 the respondents 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).

Respondent Jeffery D. Smith, also known as Jeff Smith, and Respondent Dale T. Smith and Sons Packing Company, Inc., admit the jurisdictional allegations in paragraph I of the Complaint and Notice of Hearing 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

(A) Respondent Jeffery D. Smith, also known as Jeff Smith, is an individual whose mailing address is P.O. Box 892, Draper, UT 84020. Respondent Smith at all times material herein was:

- (1) Engaged in the business of a dealer buying and selling livestock in commerce for his own account and the account of others;
- (2) Engaged in the business of a market agency buying livestock in commerce on a commission basis;
- (3) A dealer within the meaning of and subject to the Act;
- (4) A market agency within the meaning of and subject to the Act; and
- (5) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce and registered as a market agency to buy livestock in commerce on a commission basis.

(B) Respondent Dale T. Smith and Sons Packing Company, Inc. is a corporation organized under the laws of the State of Utah and has an address of 12450 Pony Express Road, Draper, Utah, 84020. Respondent Dale T. Smith and Sons Packing Company, Inc. was at all times material herein:

(1) Engaged in the business of buying livestock in commerce for the purposes of slaughter;

(2) Engaged in the business of manufacturing or preparing meat and meat food products for sale or shipment in commerce; and

(3) A packer within the meaning of and subject to the provisions of the Act.

Conclusions

Respondents Jeffery D. Smith and Dale T. Smith and Sons Packing Company, Inc. having admitted the jurisdictional facts, and Complainant and Respondents Jeffery D. Smith and Dale T. Smith and Sons Packing Company, Inc. having agreed to the entry of this decision, such decision will be entered.

Order

Respondent Dale T. Smith and Sons Packing Company, Inc., its officers, directors and employees, directly or through any corporate or other device, without any admission of wrongdoing, in connection with its activities subject to the Act, shall cease and desist from:

(1) Buying livestock for any other packer or for an agent of any other packer;
and

(2) Failing to conduct its livestock buying operations in competition with, and independently of, other packers similarly engaged.

Respondent Jeffrey D. Smith, directly or through any corporate or other device, without any admission of wrongdoing, in connection with his activities subject to the Act, shall cease and desist from:

(1) Failing to conduct his livestock buying operations in competition with, and independently of, other dealers similarly engaged; and

(2) For the purpose of restricting or limiting competition, manipulating livestock prices, or controlling the movement of livestock, prior to, or during the conduct of, his buying operations, furnishing competitor dealers and market agencies, or their buyers or representatives, similarly engaged in buying livestock, with information concerning his proposed buying operations, such as the species, classes, volume of livestock to be purchased, or prices to be paid, and any other buying information to competitor buyers.

In accordance with section 203(b) of the Act (7 U.S.C. § 193(b)) and section 312(b) of the Act (7 U.S.C. § 213(b)), Respondent Jeffery D. Smith and Respondent Dale T. Smith and Sons Packing Company, Inc., are assessed a civil penalty, jointly and severally, in the amount of Nine Thousand Dollars (\$9,000.00).

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 respondent.

Copies of this decision shall be served upon the parties.

[Redacted]

Jeffery D. Smith

F [Redacted]

Dale T. Smith and Sons Packing Company, Inc.
By: Darrell H. Smith, President
Respondent

[Redacted]

Jonathan A. Dibble
Ray Quinney and Nebeker, P.C.
Attorney for Respondents

[Redacted]

Krishna G. Ramaraju
Attorney for Complainant

Done at Washington, D.C.

this 28th day of September, 2012

[Redacted]

Peter M. Davenport
Chief Administrative Law Judge