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UNITED STATES DEPARTMENT OF AGRICULTURE JUN -8 PM 1:36

BEFORE THE SECRETARY OF AGRICULTURE

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In re:) P & S Docket No. D-12-0081
)
Bro Pack, Inc., and)
Andrew Broberg)
)
Respondents) Consent Decision

This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.)(Act), 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.)(regulations).

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 admits 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. Respondent Bro Pack, Inc. is a corporation organized and existing under the laws of the State of California. Its business mailing address is P.O. Box 6545, Pico Rivera, California 90660.

2. At all times material herein, Respondent Bro Pack, Inc. was:

(a) Engaged in the business of buying livestock in commerce for the purpose of slaughter; and

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

3. Respondent Andrew Broberg is an individual whose current business mailing address is P.O. Box 6545, Pico Rivera, California 90660.

4. At all times material to the Complaint, Respondent Broberg was:

(a) President of Respondent Bro Pack, Inc.;

(b) One hundred percent owner of Respondent Bro Pack, Inc.;

(c) Registered agent of Respondent Bro Pack, Inc.;

(d) Responsible for the direction, management, and control of Respondent Bro Pack, Inc.; and

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

5. Respondent Bro Pack, Inc. is the alter ego of Respondent Andrew Broberg.

Conclusions

Respondents having admitted the jurisdictional facts and the parties having agreed to the entry of this Decision, such Decision will be entered.

Order

Respondent Bro Pack, Inc. and Respondent Andrew Broberg, their agents and employees, directly or through any corporate or other device, in connection with their operations subject to the Act and regulations, 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. Failing to maintain and operate scales to ensure accurate weights in compliance with 9 C.F.R. § 201.71(a) and (d) of the regulations and the applicable requirements contained in the General Code, Scales Code, and Weights Code for the 2009 edition of the National Institute of Standards and Technology (NIST) Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," which is incorporated by reference in 9 C.F.R. § 201.71; and

3. Making settlement and final payment for livestock purchased by Respondents on a carcass weight or carcass grade and weight basis based on inaccurate hot carcass weights.

Pursuant to section 203(b) of the Act (7 U.S.C. § 193(b)), Respondents are assessed, jointly and severally, a civil penalty for ten thousand dollars (\$10,000.00). Respondents shall send a certified check or money order for ten thousand dollars (\$10,000.00), payable to the Treasurer of the United States, to Ciarra A. Toomey, Attorney, Office of the General Counsel, U.S. Department of Agriculture, Room 2019 South Building, 14th and Independence Avenue, S.W., Washington, D.C. 20250. The certified check or

money order should include the docket number of this proceeding, P&S Docket No. 12-0081.

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 Respondents.

Copies of this decision shall be served upon the parties.

Issued in Washington D.C.
this _____ day of _____, 2012

ADMINISTRATIVE LAW JUDGE

Bro Pack, Inc., Respondent

By: _____

Title: PRESIDENT

Andrew Broberg
Respondent

Robert G. Hibbert
Attorney for Respondents

Christine Jochim Boote
Attorney for Respondents

Ciarra A. Toomey
Attorney for Complainant