

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:)
) P & S Docket No. 13-0199
)
 Lincoln Provision, Inc.,)
)
)
 Respondent) Decision Without Hearing by
) Reason of Consent
)

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.), by a complaint and notice of hearing filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that respondent Lincoln Provision, Inc. 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).

The respondent admits the jurisdictional allegations in paragraph I of the complaint and notice of hearing 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

- (a) Respondent Lincoln Provision, Inc. is a corporation organized under the laws of Illinois. Respondent's mailing address is 824 W 38th Pl, Chicago, IL 60609.
- (b) Respondent is, and at all times material herein was:

Engaged in the business of buying livestock in commerce for the purposes of slaughter; and

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

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 Lincoln Provision, Inc., its agents and employees, directly or indirectly through any corporate or other device, shall cease and desist from:

Purchasing livestock and failing to pay the full amount of the purchase price for livestock before the close of the next business day following each purchase of livestock or, in the case of a purchase on a "carcass" or "grade and yield" basis, on or before the close of the first business day following determination of the purchase price,¹ 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), or as agreed upon in express written agreements between the Seller of the livestock and the purchaser of the livestock ("Lincoln") as provided for in section 409(b) of the Act (7 U.S.C. § 228b(b)) and section 201.200 of the regulations (9 C.F.R. § 201.200).

In accordance with section 203(b) of the Act (7 U.S.C. § 193(b)), respondent is assessed a civil penalty in the amount of five thousand dollars (\$5,000.00).

The provisions of this order shall become effective on the sixth day after service of this consent decision and order on the respondent.

¹ Pursuant to 9 C.F.R. § 201.99(e): "For purposes of settlement and final payment for livestock purchased on a grade or grade and weight basis, carcasses shall be final graded before the close of the second business day following the day the livestock are slaughtered." Once the purchase price has been determined, the full amount of the purchase price is due before the close of the next business day. 7 U.S.C. § 228b.

Copies of this decision shall be served upon the parties.

Lincoln Provision, Inc.
Respondent,

By:



President

Title



Harry S. Field
Attorney for Respondent



Lauren C. Axley
Attorney for Complainant

Done at Washington, D.C.

this 6 day of Sept, 2013



Administrative Law Judge

Jill S. Clifton