

**UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE**

In re:)	
)	
Nicholas Meat, LLC,)	P & S Docket No. 18-0061
)	
and)	
)	
Eugene Nicholas,)	P & S Docket No. 19-0013
)	
Respondents)	Consent Decision and Order

REC'D - USDA/DALJ/DHC
2019 OCT 4 PM4:13

This proceeding was instituted under the Packers and Stockyards Act of 1921, as amended and supplemented (7 U.S.C. §181 *et seq.*) (the “Act”) by a Complaint filed by the Deputy Administrator of the Fair Trade Practices Program, Agricultural Marketing Service, United States Department of Agriculture (“Complainant”), alleging that the Respondents willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 *et seq.*) (Regulations). This consent decision is entered pursuant to the consent decision provision of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

Respondents Nicholas Meat LLC and Eugene Nicholas, admit the jurisdictional allegations in paragraph I of the Complaint and specifically admit that the Secretary has jurisdiction in this matter, neither admit nor deny the remaining allegations, waive oral hearing and further procedure, waive all rights to seek judicial review and otherwise challenge or contest the validity of this decision, including waiving challenges to the Administrative Law Judge’s authority to enter this Decision and Order under the Administrative Procedure Act and the Constitution of the United States, and waive any action against the United States Department of Agriculture under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 *et seq.*) for fees and other expenses incurred by Respondents in connection with this proceeding or any action against any USDA employee in their individual capacity, and consent

and agree, for the purpose of settling this proceeding and for such purpose only, to the entry of this consent decision.

Complainant agrees to forever release, acquit, and discharge Respondents from any and all claims, under the Packers and Stockyards Act, any regulations related thereto, and/or any statutes or regulations administered by the Complainant, of whatever kind or nature which Complainant had or might have to date against Respondents which were known to the Complainant or could have reasonably been discovered by the Department, which occurred before the filing of this Consent Decision.

Findings of Fact

1. Respondent Nicholas Meat, LLC is a limited liability company registered in the State of Pennsylvania. Respondent Nicholas Meat, LLC's business operating and mailing address is 508 East Valley Road, Loganton, PA 17747.

2. Respondent Eugene Nicholas is an individual (b) (6) [REDACTED] (b) (6) [REDACTED].

3. Respondent Eugene Nicholas is, and at times material herein, was:

- (a) The organizer and a member of Respondent Nicholas Meat, LLC;
- (b) Responsible for the management, direction, and control of Respondent Nicholas Meat, LLC.

4. Respondent Nicholas Meat, LLC under the direction, management, and control of respondent Eugene Nicholas is, and at all times material herein, was:

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

(b) A packer within the meaning of and subject to the provisions of the Act and required to maintain a financial instrument sufficient to cover livestock transactions conducted as a packer.

Conclusions of Law

Respondents Nicholas Meat LLC and Eugene Nicholas having admitted the jurisdictional facts, and the parties having agreed to the entry of this Consent Decision, the Consent Decision will be entered.

Order

1. Respondents Nicholas Meat LLC and Eugene Nicholas, their agents and employees, directly or through any corporate or other device, in connection with his operations subject to the Act, shall not engage in operations subject to the Act without maintaining an adequate bond or bond equivalent in accordance with section 312(a) of the Act (7 U.S.C. §213(a)), and sections 201.29 and 201.30 of the Regulations (9 C.F.R. §§ 201.29, 201.30).

2. Nicholas Meat LLC shall continue to provide proof of bond coverage to the USDA-AMS.

3. In accordance with section 401 of the Act (7 U.S.C. §221) Respondents will keep and maintain records that fully and correctly disclose all transactions involved in their business subject to the Act.

4. In accordance with sections 6(b) and 10 of the Federal Trade Commission Act as made applicable to the jurisdiction of the Secretary of Agriculture pursuant to 7 U.S.C. §222 and with §201.97 of the regulations (9 C.F.R. § 201.97), Respondents shall file all annual reports on or before the dates due.

5. In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondents are jointly and severally assessed a civil penalty in the amount of \$17,500.00, to be paid by certified check or money order made payable to the Treasurer of the United States and sent to USDA, AMS, FTTP, PSD, P.O. Box 979064, St. Louis, Missouri 63197-9000. The certified check or money order shall include the docket numbers of this proceeding, Docket No. 18-0061 and 19-0013. The civil penalty will become due and payable 30 days after the effective date of this order.

6. Pursuant to the representations made by the Complainant, Chief Administrative Law Judge Strother finds that Complainant has voluntarily agreed to forever release, acquit, and discharge Respondents from any and all claims, under the Packers and Stockyards Act, any regulations related thereto, and related statutes or regulations administered by the Complainant, of whatever kind or nature which Complainant had or might have to date against Respondents which were known to the Complainant or could have reasonably been discovered by the Department, which occurred before the filing of this Consent Decision.

This Order shall have the same force and effect as if entered after a full hearing. The provisions of this Order shall become effective on the day after service of this order on the Respondent.

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

Done at Washington, D.C.

this 4th day of October 2019

[Redacted]

Chief Administrative Law Judge
Charming D. Strother

Respondent,
Nicholas Meat LLC

By:

[Redacted]

CHARLES
KENDALL

[Redacted]

Charles Kendall
Attorney for Complainant

Title: Member, Co-Owner

[Redacted]

Eugene Nicholas
Respondent