

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P&S Docket No. D-19-J-0078
)
John B. Hagler,)
)
Respondent) Decision without Hearing
) Based on Consent

REC'D - USDA/OALJ/OHC
2020 APR 16 AM 11:05

This is a disciplinary proceeding under the Packers and Stockyards Act, 1921 as amended and supplemented (7 U.S.C. §§ 181 et seq.) (Act); the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. §§ 201.1 et seq.); and the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130 through 1.151) (Rules of Practice).

The Complainant, the Deputy Administrator of the Fair Trade Practices Program, Agricultural Marketing Service, United States Department of Agriculture (Complainant), initiated this proceeding against Respondent John B. Hagler, by filing a Complaint on May 7, 2019. The Complaint alleged that Respondent Hagler falsified purchase prices to inflate purchase prices in 7 transactions, thereby taking undisclosed profits from his principals, whom he worked for on a commission basis. The Complaint further alleged that these actions were a willful violation of sections 312, and 401 of the Act (7 U.S.C. §§ 213, 221) and sections 201.44 and 201.53 of the regulations (9 C.F.R. §§ 201.44, 201.53). On December 18, 2019, a Decision and Order without Hearing By Reason of Default was entered in this matter. Respondent made a Motion to Set Aside, Reconsider, Modify or Vacate the Default Judgement on January 28, 2020. The parties have now agreed to the entry of this consent decision to substitute for the Default Decision entered on December 18, 2019. This consent decision and order is entered pursuant to section 1.138 (7 C.F.R. § 1.138) of the Rules of

Practice Governing Formal Adjudicatory Procedures Instituted by the Secretary under Various Statutes (7 C.F.R. §§ 1.130-1.151).

The Respondent admits the jurisdictional allegations set forth in paragraph I of the Complaint, specifically admits that the Secretary has jurisdiction in this matter, neither admits nor denies the remaining allegations, waives oral hearing and further procedure, waives all rights to seek judicial review and otherwise challenged or contest the validity of this decision, including waiving challenges to the Administrative Law Judge's authority to enter this Decision 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 Respondent in connection with this proceeding or any action against any USDA employee in their individual capacity.

Complainant agrees to the entry of this consent decision and order.

Findings of Fact

1. Respondent is an individual whose current address is in the [REDACTED] His address will not be stated in this Decision to protect his privacy but will be maintained with the Hearing Clerk, United States Department of Agriculture, for the purpose of service of this Decision.

2. Respondent is, and at all times material herein was:

- a. Engaged in the business of a dealer buying and selling livestock in commerce for his own account and for the accounts of others;
- b. Engaged in the business of a market agency buying livestock on a commission basis, and;
- c. Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce and as a market agency to buy livestock on a commission basis.

Conclusions

Respondents having admitted the jurisdictional facts, and the parties having agreed to the entry of this Decision, this Decision without Hearing Based on Consent will be entered.

Order

1. Respondent Hagler, his agents and employees, directly or through any corporate or other device, in connection with operations subject to the Packers and Stockyards Act, shall cease and desist from engaging in operations subject to the Act without accurately representing the purchases in transactions where he is a market agency buying or selling livestock in commerce, and shall cease and desist from falsification of invoices to show false price or weight.

2. Pursuant to section 401 of the Act (7 U.S.C. § 221), Respondent shall keep and maintain records sufficient to fully and correctly disclose all transactions involved in his business, including, but not limited to purchase invoices, and sales invoices.

3. • In accordance with 7 U.S.C. § 204, Respondent consents to a five-year suspension, to begin after the entry of this consent, whereby Respondent will not engage in business of a dealer or market agency. Moreover, Respondent consents that the last three-years of the five-year suspension are held in abeyance according to the "Understanding Concerning Suspension" entered into between the parties. Respondent may, however, buy and sell livestock incidental to his farming operations and not for speculative purposes. He may seek salaried employment by another registrant or packer, subject to Complainant's verification of Respondent's employment status with the registrant or packer, and Complainant's research of the registrant or packer's history of compliance with the Act and regulations.

This decision shall become final and effective without further proceedings upon issuance.

Copies of this Decision and Order shall be served by the Hearing Clerk upon each of the parties.

[Redacted]

Steven Patterson #6837
Attorney for Respondent

[Redacted]

John Hagler
Respondent

JONATHAN
GORDY

[Redacted]

Jonathan Gordy
Attorney for Complainant

Done at Washington, DC

this 16th day of April, 2020.

[Redacted]

Chief Administrative Law Judge
Channing D. Strother