

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P&S Docket No. D-19-J-0061
)
James Steven Kemp)
)
Respondent)

REC'D - USDA/OALJ/OHC
2020 AUG 21 AM 8:30

Decision Without Hearing by Reason of Consent

This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.) (the Act), by a complaint filed by the Deputy Administrator, Fair Trade Practices Program (FTPP), Agricultural Marketing Service (AMS), U.S. Department of Agriculture (USDA), alleging that James Steven Kemp (Respondent) violated the Act and the regulations promulgated pursuant thereto (9 C.F.R. § 201.1 et seq.) (the regulations). 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 et seq.).

Respondent admits the jurisdictional allegations set forth in paragraph I of the complaint and specifically admit that the Secretary has jurisdiction in this matter, neither admit nor denies the remaining allegations, waives oral hearing and further procedure, waives 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 under the Administrative Procedure Act and the Constitution of the United States, and waives 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, Complainant agrees to the entry of this consent decision and order.

Findings of Fact

1. James Steven Kemp, is an individual whose current address is in the State of [REDACTED] His address will not be stated in the complaint to protect respondent's privacy but it has been provided to the Hearing Clerk, United States Department of Agriculture, for the purpose of service.
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
 - b. 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.

Conclusion

Respondent having admitted the jurisdictional facts, and the parties having agreed to the entry of this consent decision, this consent decision and order will be entered.

Order


Respondent, his agents and employees, directly and through any corporate or other device, in connection with their operations subject to the Act, shall cease and desist from failing to pay the full amount of the purchase price for livestock within the time period required by sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a), 228b).

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondent is assessed civil penalty in the amount of ten thousand dollars (\$10,000.00). Respondent shall pay the ten thousand dollars (\$10,000.00) in monthly installments. The first payment will be eight hundred thirty-seven dollars (\$837), with each of the remaining payments in equal amounts of eight hundred thirty-three dollars (\$833) for a period of twelve (12) months, with the first installment due on or before September 1, 2020, and continuing on or before the first day of each month until the \$10,000.00 is paid in full. Respondent shall make payment by certified check or money order payable to the U.S. Treasury in reference to P&S Docket No. D-19-J-0061 and sent to:

USDA-AMS-FTPP-PSD
P.O. Box 979064
St. Louis, Missouri 63197-9000

The provisions of this order shall become effective upon issuance.

Copies of this decision and order shall be served on the parties.


James Steven Kemp

JONATHAN GORDY

Digitally signed by JONATHAN
GORDY
Date: 2020.08.20 13:25:56 -04'00'

Jonathan Gordy
Attorney for Complainant

Done at Washington, DC
this 20th day of August, 2020.


Channing D. Strother
Chief Administrative Law Judge