

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	
Jeremy Anderson,)	P&S Docket No. 20-J-0141
)	
and)	
)	
Hillel Shamam,)	P&S Docket No. 20-J-0142
)	
and)	
)	
Abe's Kosher Meats, LLC,)	P&S Docket No. 20-J-0143
)	
)	
Respondents)	

MODIFIED CONSENT DECISION AND ORDER DISMISSING CIVIL PENALTY

This is a proceeding under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.) (the Act), and the regulations promulgated pursuant thereto (9 C.F.R. § 201.1 et seq.) (the regulations). The matter initiated with a complaint filed on July 10, 2020, by the Deputy Administrator, Fair Trade Practices Program, Agricultural Marketing Service, U.S. Department of Agriculture, alleging that respondents Jeremy Anderson, Hillel Shamam, and Abe's Kosher Meats, LLC (collectively, respondents), violated the Act and regulations and seeking civil penalties for the same.

On December 22, 2020, Chief Administrative Law Judge Channing Strother, acting on my behalf, issued a consent decision and order in this proceeding. The findings of fact of that decision and order held that (1) respondent Abe's Kosher Meats, LLC, under the direction, management, and control of respondents Jeremy Anderson and Hillel Shamam, was, at all times

set forth in the complaint, engaged in the business of buying livestock in commerce for purposes of slaughter, and a packer within the meaning of and subject to the provisions of the Act; (2) respondent Jeremy Anderson was a partner in and 50% owner of respondent Abe's Kosher Meats, LLC, and responsible for the direction, management, and control of the same; (3) respondent Hillel Shamam likewise was a partner in and 50% owner and manager of respondent Abe's Kosher Meats, LLC, and responsible for the direction, management, and control of the same; and (4) respondents Jeremy Anderson and Hillel Shamam were engaged in the business of buying livestock in commerce for purposes of slaughter and packers within the meaning of and subject to the provisions of the Act.

The December 22 decision and order's findings of fact further held that (1) respondents purchased livestock during the period from June 1, 2018, through December 10, 2018, but failed to pay, when due, the full purchase price of the livestock, and that they still owed approximately \$255,317.00 for those livestock purchases as of the filing date of the December 22 consent decision and order; (2) respondents likewise purchased livestock during the period from May 7, 2018, through December 16, 2018, but failed to pay, when due, the full purchase price of the livestock within the time period required by the Act; (3) while processing the livestock purchased during the aforementioned time periods, respondents weighed livestock carcasses using a monorail scale that was not equipped with a printing device to record weight values and thereby failed to properly record hot carcass weights; and (4) while processing the same, respondents deducted six (6) pounds from the hot weight of every cow carcass to offset the costs of offal and the disposal of downed animals and paid livestock sellers on the basis of the reduced hot carcass weights and thereby failed to pay livestock sellers the full amount due for the

carcasses for which respondents improperly reduced the hot carcass weights.

The December 22 consent decision and order directed respondents to cease and desist from (1) failing to pay the purchase price of livestock, as required by sections 202(a) and 409 of the Act (7 U.S.C. §§ 192(a) and 228b); (2) failing to pay, when due, the full purchase price of livestock, as required by sections 202(a) and 409 of the Act (7 U.S.C. §§ 192(a) and 228b); (3) failing to use a monorail scale that is equipped with a printing device to accurately record hot carcass weights, as required by section 202(a) of the Act (7 U.S.C. § 192(a)) and sections 201.49 and 201.71 of the regulations (9 C.F.R. §§ 201.49 and 201.71); and (4) failing to pay livestock sellers the full amount due for the carcasses based on the accurately determined and properly recorded hot carcass weights, as required by section 202(a) of the Act (7 U.S.C. § 192(a)) and sections 201.49, 201.55, and 201.99 of the regulations (9 C.F.R. §§ 201.49, 201.55, and 201.99).

The December 22 consent decision and order also assessed respondents, jointly and severally, a civil penalty in the amount of two hundred and fifty-five thousand three hundred and seventeen dollars (\$255,317.00) but made that penalty reducible dollar-for-dollar by restitution made by respondents to unpaid livestock creditors named in the consent decision and order in the amounts listed for each creditor so named in the consent decision and order. The decision and order required respondents to make full restitution to the named livestock creditors by close of business on the ninetieth (90th) day after the effective date of the decision and order and to provide complainant with proof of said restitution within ninety-five (95) days of the effective date of the decision and order. It further provided that, if respondents made full restitution to the named livestock creditors in the amounts listed for each creditor and provided complainant with proof of the same within the aforementioned timeframes, complainant would petition the

Administrative Law Judge for a supplemental order canceling the entire two hundred and fifty-five thousand three hundred and seventeen dollar (\$255,317.00) civil penalty while leaving the order's remaining provisions intact and undisturbed. If, however, respondents failed to make full restitution by close of business on the ninetieth (90th) day after the effective date of the decision and order, the order stated that the full amount of the two hundred and fifty-five thousand three hundred and seventeen dollar (\$255,317.00) civil penalty or the remnant thereof would become due and payable immediately upon application of complainant to the Administrative Law Judge, without the need for further proceedings.

The USDA Hearing Clerk served complainant's counsel and respondents' counsel with the executed consent decision and order via email on December 22, 2020, and the decision and order became final and effective on that date. Per the deadlines set forth in the consent decision and order, respondents thus had to make full restitution to the named livestock creditors by close of business on March 22, 2021, and they had to provide complainant with proof of said restitution by March 27, 2021, to secure dismissal of some or all of the assessed civil penalty.

On April 5, 2021, per the terms of the December 22 consent decision and order, complainant, acting by and through its counsel, filed a request for the issuance of a modified consent decision and order finding that respondents timely made restitution to the livestock creditors named in the December 22 consent decision and order and canceling the two hundred and fifty-five thousand three hundred and seventeen dollar (\$255,317.00) civil penalty that the December 22 decision and order assessed against respondents, but leaving the cease and desist provisions of that decision and order in place and in effect. In support of this request, complainant states:

On March 22, 2021, respondents' counsel timely submitted electronic proof that respondents had made full restitution to the livestock creditors named in the consent decision and order within the time frame contemplated by the decision and order. Respondents' counsel also mailed hard copies of the proof of restitution to complainant's Western Regional Office in Aurora, Colorado, via certified mail that same day. Complainant has reviewed this proof and is satisfied that respondents have complied with the terms of the consent decision and order.

Good cause having been shown, the following ORDER is hereby entered.

ORDER

1. Complainant's REQUEST FOR ISSUANCE OF MODIFIED CONSENT DECISION AND ORDER is GRANTED.

2. A finding is made that respondents have made full, satisfactory, and timely restitution to the livestock creditors named in the consent decision and order dated December 22, 2020, in the amounts set forth in that decision and order.

3. All other findings of fact in the consent decision and order dated December 22, 2020, remain intact and undisturbed by the findings and terms of this modified consent decision and order.

4. The two hundred and fifty-five thousand three hundred and seventeen dollar (\$255,317.00) civil penalty that the consent decision and order dated December 22, 2020, assessed against respondents, jointly and severally, is DISMISSED.

5. All other terms and conditions of the consent decision and order dated December 22, 2020, including the cease and desist orders contained therein, remain undisturbed and in full effect from the effective date of that decision and order.

Done in Washington D.C.

this 6th day of April, 2021.

Tierney Carlos /S/

Tierney Carlos
Administrative Law Judge