

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	
Triple J Family Farms, LLC,)	P&S-D Docket No. 19-J-0108
and John Derner,)	P&S-D Docket No. 19-J-0109
)	
Respondents.)	

CONSENT DECISION AND ORDER

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”), and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 *et seq.*) (the “Regulations”), by a Complaint filed by the Deputy Administrator of the Fair Trade Practices Program of the Agricultural Marketing Service, United States Department of Agriculture (“Complainant”), alleging that Triple J Family Farms, LLC, and John Derner (collectively “Respondents”) willfully violated the Act and Regulations. This Consent Decision and Order (“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 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 Consent Decision, including waiving challenges to the Administrative Law Judge’s authority to enter this Consent 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 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 the entry of this Consent Decision.

Findings of Fact

1. John Derner is an individual who at all times material herein was the owner of Triple J Family Farms.
2. John Derner is the registered agent for service for Triple J Farms, at 53050 US Highway 12E, Buffalo Lake, Minnesota, 55314.
3. John Derner at all times material herein was:
 - (a) Engaged in the business of buying and selling livestock in commerce for the purpose of slaughter, and of manufacturing or preparing meats or meat food products for sale or shipment in commerce;
 - (b) A packer within the meaning of, and subject to, the provisions of the Act;
 - (c) Owner and principal officer of Triple J Family Farms; and
 - (d) Responsible for the direction, management and control of Triple J Family Farms.
4. Triple J Family Farms, LLC (“Triple J Farms”) is a limited liability company organized under the laws of the state of Minnesota.
5. Triple J Farms, at all times material herein, had an address of 53050 US Highway 12E, Buffalo Lake, Minnesota, 55314.

6. Triple J Farms, while under the direction, management, and control of John Derner, was at all times material herein:

- (a) Engaged in the business of buying livestock in commerce for the purpose of slaughter and of manufacturing or preparing meats or 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.

Conclusions of Law

Respondents 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 shall, directly or through any corporate or other device, in connection with their operations subject to the Act, cease and desist from failing to pay the purchase price of livestock when due within the time period required by the Act and issuing checks in payment for livestock purchases that are drawn from accounts that do not maintain sufficient funds to pay for such checks when presented by the seller.

2. In accordance with section 203(b) of the Act (7 U.S.C. § 193(b)), Respondents are jointly and severally assessed a civil penalty in the amount of Fifteen Thousand Dollars (\$15,000.00). Respondents agree to submit payment in full, immediately. Respondents will submit the full amount of \$15,000.00 by certified check, made payable to the Treasurer of the United States, with a notation in the memo field of "P&S Docket Nos. D-19-J-0108 and D-19-J-0109" by traceable delivery to the following address:

USDA, AMS, FTTP, PSD
P.O. Box 979064
St. Louis, MO 63197-9000

This Order shall have the same force and effect as if entered after a full hearing. Copies of this Decision and Order shall be served on the parties. The provisions of this Order shall become effective upon service on Respondent.


John Derner
For himself and Triple J Family
Farms, LLC


Frank Munshower
Estebo, Frank & Munshower
Attorney for Respondents

Digitally signed by
Brian Hill
Brian Hill
Date: 2021.04.30
09:49:51 -04'00'

Brian Hill
Attorney for Complaint

Issued in Washington D.C.

this 30th day of April, 2021


Jill S. Clifton
Digitally signed by JILL CLIFTON
Date: 2021.04.30 13:12:45
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JILL S CLIFTON
Administrative Law Judge