

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
)
Tom Agler Livestock, LLC, dba) P&S Docket No. D-21-J-0030
Tom Agler Sr., Livestock, LLC;)
Tom Agler Trucking LLC;)
Rocking A Cattle LLC; Tom Agler;)
Tom Agler Livestock; and Rockin A)
Cattle)
and)
Tom Agler, Sr.,) P&S Docket No. D-21-J-0031
)
Respondents) Consent Decision

This proceeding arises under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*) (Act) and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 *et seq.*) (Regulations). On April 26, 2021, a Complaint was filed by the Deputy Administrator, Fair Trade Practices Program, Agricultural Marketing Service, United States Department of Agriculture (USDA), alleging that the Respondents willfully violated sections of the Act and the Regulations. Complainant and Respondents have agreed to entry of this Decision, without hearing or further procedure, pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (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 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 USDA under the Equal Access to Justice Act (5 U.S.C. § 504 *et seq.*) for fees and other expenses incurred by Respondents in connection with this proceeding or any action against 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 Decision.

Findings of Fact

1) Tom Agler Livestock, LLC (Respondent LLC) is a limited liability company organized under the name of Tom Agler Sr. Livestock, LLC and under the laws of the State of Ohio, with its principal office located at 1895 N. Defience Trail, Spencerville, Ohio, 45887.

2) Respondent LLC, at all times material herein, was:

- a. Engaged in the business of a dealer buying and selling livestock in commerce; and
- b. Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce.

3) Tom Agler, Sr. (Respondent Agler) is an individual whose current address is in the [REDACTED]. Respondent Agler, in connection with the allegations in the Complaint, operated under numerous names, including, but not limited to, the entity names listed in the caption to this case.

- 4) Respondent Agler, at all times material herein, was:
- a. An authorized agent and 100% owner of Respondent LLC;
 - b. Responsible for the direction, management, and control of the day-to-day practices and activities of Respondent LLC; and
 - c. Engaged in the business of a dealer, buying and selling livestock in commerce.

Conclusions

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

Order

1. Respondents, their agents and employees, successors and assigns, directly or through any corporate or other device, in connection with its operations subject to the Act, shall cease and desist from:
 - a. Failing to pay and failing to pay, when due, the full purchase price of such livestock as prescribed by sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a) and 228b) and section 201.43 of the Regulations (9 C.F.R. § 201.43);
 - b. Failing to maintain sufficient funds on deposit and available in the account upon which payment checks are drawn to pay such checks when presented, as required by Sections 312(a) and 409(a) of the Act (7 U.S.C. §§ 213(a) and 228); and
 - c. Failing to keep and maintain records which fully and correctly disclose all of the transactions involved in its business as a livestock

dealer as required by section 401 of the Act (7 U.S.C. § 221).

2. Respondents, operating individually or through any corporate or other device, are suspended as a registrant under the Act for a period of ten (10) years, to commence on the effective date of this Order and shall continue until all obligations of this Order are met, provided however, that upon application to the Packers and Stockyards Division, a supplemental order may be issued terminating the suspension of the Respondents at any time after the expiration of 365 days of the suspension period upon Respondents' demonstration, to the satisfaction of the Packers and Stockyards Division, that all unpaid livestock sellers identified in the complaint underlying this Order have been paid in full, or a reasonable schedule of restitution has been arranged with the unpaid livestock sellers.

This Order shall have the same force and effect as if entered after full hearing. The provisions of this Order shall become final and effective upon issuance. Copies of this decision shall be served upon the parties.



Livestock LLC

Tom Agler Livestock, LLC, dba
Tom Agler Sr., Livestock, LLC;
Tom Agler Trucking LLC;
Rocking A Cattle LLC; Tom Agler;
Tom Agler Livestock; and Rockin A Cattle
Respondent



Tom Agler, Sr.
Respondent

**Matthew
Schmit**

Digitally signed by
Matthew Schmit
Date: 2021.07.29
15:30:25 -05'00'

Matthew T. Schmit
Attorney for Complainant

Done at Washington, D.C.
this 30 Day of July, 2021



Administrative Law Judge