

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:)	
)	
Stephen Smeal,)	P&S Docket No. D-16-0130
d/b/a Fatted Calf Cattle Farms #6)	
)	
Respondent)	Consent Decision and Order

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, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that the Respondent Stephen Smeal, doing business as Fatted Calf Cattle Farms #6, willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 *et seq.*). This Consent Decision and Order is entered pursuant to the consent decision provision of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.138) (Rules of Practice).

The Respondent admits the jurisdictional allegations in paragraph I of the Complaint and specifically admits that the Secretary has jurisdiction in this matter, neither admits nor denies the remaining allegations, waives oral hearing and further procedure, and consents and agrees, for the purpose of settling this proceeding and for such purpose only, to the entry of this Consent Decision and Order.

The Complainant agrees to the entry of this Consent Decision and Order.

This consent decision supersedes the previous consent decision entered into between the parties at *In re: Stephen Smeal, d.b.a. Fatted Calf Cattle Farms #6*, P&S Docket No. D-12-0376.

Findings of Fact

1. Stephen Smeal is and at all times material herein, was an individual doing business as Fatted Calf Cattle Farms #6 whose business mailing address is 1203 VZCR 2414, Canton, TX 75103. The Respondent Stephen Smeal doing business as Fatted Calf Cattle Farms #6 is, and at all times material herein was:

- a. Engaged in the business of buying livestock on a commission basis in commerce;
- b. Engaged in the business of a dealer buying and selling livestock in commerce; and
- c. Registered with the Secretary of Agriculture as a dealer and market agency to buy livestock on a commission basis.

Conclusion

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

Order

The Respondent Stephen Smeal, doing business as Fatted Calf Cattle Farms #6, directly or through any corporate or other device, in connection with his operations subject to the Act, shall cease and desist from:

1. Failing to pay, when due, the full purchase price of livestock as required by section 409 of the Act (7 U.S.C. § 228b) and section 201.43 of the regulations (9 C.F.R. § 201.43); and
2. Issuing checks in payment for livestock without having and maintaining sufficient funds on deposit and available in the accounts upon which they are drawn to pay such checks when presented.

In accordance with section 312(b) of the Act (7 U.S.C. § 213), the Respondent is reassessed a civil penalty in the amount of \$84,000.00. The \$84,000.00 civil penalty will be held

in abeyance in accordance with and pending compliance with the terms of the “Understanding Regarding Consent Decision” entered between the parties. The civil penalty will be held in abeyance for a four (4) year period beginning on the date that this Order becomes final and effective, provided that the Respondent complies with the terms of this Consent Decision and Order and with the Understanding Regarding Consent Decision. Once the Respondent successfully completes twelve consecutive full payments to the livestock sellers in accordance with the Understanding Regarding Consent Decision, \$21,000.00 of the civil penalty will be waived. Upon the completion of the Understanding Regarding Consent Decision, and full payment being received by all livestock sellers, the \$84,000.00 civil penalty will be waived.

In addition to the civil penalty the Respondent will be suspended as a registrant under the Act for a period of thirty (30) days. Fifteen (15) consecutive days of this period of suspension will be held in abeyance provided that the Respondent is in full compliance with the terms of this Consent Decision and Order and with the Understanding Regarding Consent Decision. The remaining 15 consecutive days of this period of suspension must be served within 60 days from the sixth (6th) day after service of this Consent Decision and Order on the Respondent. Pursuant to section 303 of the Act (7 U.S.C. § 204), the Respondent is prohibited from engaging in business subject to the Act without being registered with the Packers and Stockyards Program.

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 on the sixth (6th) day after service of this consent decision and order on the Respondent.

Copies of this Consent Decision and Order shall be served upon the parties.

[Redacted]

Stephen Smeal
Doing business as Fatted Calf Cattle Farms #6
Respondent

[Redacted]

John V. Rodriguez
Attorney for Complainant

Done at Washington, D.C.

this 2nd day of August, 2016

[Redacted]
Administrative Law Judge *CALN*