

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P. & S. Docket No. D-08-0052
Nazem Saad,)
d/b/a Albadr Slaughter House)
Respondent)
)

DECISION WITHOUT HEARING BY REASON OF DEFAULT

Preliminary Statement

This disciplinary proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.; hereinafter “Act”), by a Complaint and Notice of Hearing filed on January 24, 2008, by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture (hereinafter “Complainant”), alleging that Respondent willfully violated the Act and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.; hereinafter “Regulations”).

The Complaint and Notice of Hearing and a copy of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 et seq.; hereinafter “Rules of Practice”) were served on Respondent by certified mail on February 26, 2008. Respondent was informed in a letter of service that an answer must be filed within twenty (20) days of service and that failure to file an answer would constitute an admission of all the material allegations contained in the Complaint and Notice of Hearing and a waiver of the right to an oral hearing.

Respondent was also informed in a letter from Complainant's attorney, which was sent by certified mail and received by Respondent on April 5, 2008,¹ that Complainant would seek the assessment of a civil penalty in the case in the amount of \$16,000.00 against Respondent. After waiting an additional four weeks after service of the notice letter, Complainant then filed a motion for decision without hearing based on Respondent's default.

Respondent has failed to file an answer within the time period prescribed by the Rules of Practice (7 C.F.R. § 1.136), and the material facts alleged in the Complaint and Notice of Hearing, which are admitted by Respondent's failure to file an answer, are adopted and set forth herein as findings of fact.

This decision and order, therefore, is issued pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Nazem Saad, d/b/a Albadr Slaughter House (hereinafter "Respondent"), is an individual whose business mailing address was 1826 Adelaide Street, Detroit, Michigan 48207. Respondent's current mailing address is 47231 Glenhurst Drive, Canton, Michigan 48187.
2. At all times material herein, Respondent was:
 - (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.
3. Respondent's average annual purchases of livestock exceeded \$500,000.00.
4. Respondent was notified by letter addressed to Nasser Saad, Respondent's

¹ United States Postal Service Domestic Return Receipt for Article No. 7000 1670 0011 8977 6228.

president, dated May 5, 2004, that the Act requires all packers whose average annual purchases exceed \$500,000.00 to file and maintain a surety bond or bond equivalent, and that based on the information that Respondent submitted in form P&SP 132, Packer Inquiry, Respondent was required to be bonded. The letter informed Respondent that he must obtain a condition 4 bond or bond equivalent of at least \$15,000.00 and notified Respondent of his obligation to file proof of the bond or bond equivalent with the Packers and Stockyards Program.

5. Respondent was notified by certified letter addressed to Seymour Shapiro, Respondent's general manager, dated October 28, 2004, and served on or between November 1, 2004, and November 4, 2004,² that Respondent had failed to furnish the requested bond coverage and that a continuation of livestock operations as a packer without a properly filed bond or bond equivalent was a violation of the Act and the Regulations. The letter referenced 7 U.S.C. § 203 and 9 C.F.R. §§ 201.10, 201.27-201.34 and informed Respondent that violation of the bonding provisions of the Act and Regulations could subject him to disciplinary or court action. The letter further notified Respondent of his obligation to file proof of the bond or bond equivalent with the Packers and Stockyards Program.

6. Respondent, on or about the dates and in the transactions set forth below, purchased livestock for the purpose of slaughter without maintaining an adequate bond or bond equivalent.

² The return receipt was signed and returned to the Packers and Stockyards Program, but was not dated by the recipient. The United States Postal Service stamped the return receipt on November 1, 2004. The Packers and Stockyards Program stamped the return receipt on November 4, 2004.

Seller	Purchase Date	No. of Head	Livestock Amount
Tjernagel Brothers P.O. Box 87 Story City, Iowa 50248	8/13/06	313	\$24,051.55
	8/20/06	210	\$15,847.87
	9/4/06	152	\$16,953.33
	9/6/06	55	\$4,169.48
	9/13/06	209	\$16,898.67
	9/20/06	248	\$23,201.80
	9/26/06	225	\$21,118.90
	10/4/06	125	\$11,956.18
	10/15/06	238	\$23,911.23
	10/22/06	192	\$21,608.13
Mark A. Oberly 3223 Dennison Road Dundee, Michigan 48131	7/18/06	52	\$15,267.13
	7/25/06	98	\$23,277.90
	7/30/06	55	\$4,252.52
	8/1/06	28	\$17,186.08
	8/7/06	20	\$17,384.53
	8/23/06	18	\$8,832.63
	8/23/06	37	\$15,133.47
	8/23/06	71	\$3,719.44
	8/28/06	29	\$18,379.20
	9/4/06	54	\$10,391.76
	10/1/06	164	\$55,193.39
	10/2/06	63	\$21,017.88
	10/6/06	30	\$2,203.00
	10/10/06	15	\$4,301.35
	10/16/06	75	\$13,240.92
	10/23/06	36	\$17,070.96
	10/30/06	66	\$3,460.33
	10/30/06	45	\$13,602.81
	11/6/06	66	\$18,255.38
	11/14/06	139	\$21,202.03
	11/18/06	117	\$7,861.66
	11/27/06	123	\$14,506.51
	12/4/06	140	\$12,035.01
	12/4/06	142	\$24,723.85
	12/5/06	9	\$2,772.66
	12/11/06	45	\$2,958.20
	12/11/06	6	\$5,692.36
12/20/06	147	\$18,750.49	
12/20/06	54	\$3,868.65	
TOTAL		3,911	\$576,259.24

7. Respondent, in connection with his operations subject to the Act, in the transactions set forth in Appendices A and B and incorporated herein by reference, failed to pay the full amount of the purchase price for livestock within the time period required by the Act, with the total amount remaining unpaid of \$119,019.41.

Conclusions

By reason of the facts found in Finding of Fact 4 through 6, Respondent willfully violated section 202(a) of the Act (7 U.S.C. § 192(a)), and sections 201.29 and 201.30 of the Regulations (9 C.F.R. §§ 201.29, 201.30).

By reason of the facts found in Finding of Fact 7, Respondent has willfully violated sections 202(a) and 409 of the Act (7 U.S.C. §§ 192(a), 228b).

Order

Respondent Nazem Saad, d/b/a Albadr Slaughter House, as an individual, and his agents and employees, directly or through any corporate or other device, in connection with his activities subject to the Act, shall cease and desist from:

1. Engaging in business in any capacity for which bonding is required under the Act and the Regulations, without filing and maintaining an adequate bond or its equivalent, as required by the Act and the Regulations; and
2. Failing to pay the full amount of the purchase price for livestock within the time period required by the Act.

Pursuant to section 203(b) of the Act (7 U.S.C. § 193(b)), Respondent is assessed a civil penalty in the amount of Sixteen Thousand Dollars (\$16,000.00).

This decision and order shall become final and effective without further proceedings thirty-five (35) days after service on Respondent, unless appealed to the Judicial Officer by a party to the proceeding within thirty (30) days after service as provided in sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139, 1.145).

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

Done at Washington, D.C.

this _____ day of _____, 2008

Administrative Law Judge