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UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

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OALJ/OHC

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In re:	)	
	)	P&S Docket No. D-12-0164
	)	
Jeffrey H. Auerbach,	)	
	)	
	)	
Respondent	)	Consent Decision and Order

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. §§ 181 et seq.), 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 respondent Jeffrey H. Auerbach willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. §§ 201.1 et seq.). This decision is entered pursuant to the consent decision provision of the rules of practice applicable to this proceeding (7 C.F.R. § 1.138).

The respondent admits the jurisdictional allegations in paragraph I of the Complaint and Notice of Hearing 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 decision.

The complainant agrees to the entry of this decision.

I.

(a) Jeffrey H. Auerbach, referred to herein as respondent, is an individual whose home address is in the State of Colorado. In order to protect the personal privacy of respondent his address was not included in the Complaint and Notice of Hearing but was provided to the Hearing Clerk for the purpose of effectuating service of process.

(b) The respondent at all times material herein was:

(1) The president, manager and owner of 100% of the voting stock of Lyco Meat Company, a corporation organized under the laws of the State of Colorado. Lyco Meat Company was also known as Auerbach's Lyco Meat Company, Auerbach Meats, Auerbach's Kosher Meats, Auerbach's Kosher Foods, Auerbach's Colorado Choicemeats, Colorado Kosher Ltd, Auerbach's Meat Solutions, Inc., Auerbach's Meat Company and Rocky Mountain Kosher. Lyco Meat Company was voluntarily dissolved on or about October 11, 2010, and no longer operates;

(2) Responsible for the direction, management and control of Lyco Meat Company and therefore the *alter ego* of Lyco Meat Company;

(3) Engaged in the business of buying livestock in commerce for the purposes of slaughter;

(4) Engaged in the business of manufacturing or preparing meat and meat food products for sale or shipment in commerce;

(5) A packer within the meaning of and subject to the provisions of the Act.

### Conclusions

The respondent having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, such decision will be entered.

### Order


(1) Respondent, 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 failing to pay and failing to pay, when due, the full purchase price of livestock as required by section 409 of the Act (7 U.S.C. § 228b).

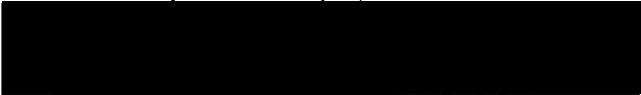
(2) Respondent, his agents and employees, directly or through any corporate or other device, in connection with his activities subject to the Act, shall cease and desist from engaging in business in any capacity for which bonding is required under the Act and the regulations, without filing and maintaining an adequate bond or its equivalent, as required by the Act and the regulations.

(3) In accordance with section 203 of the Act (7 U.S.C. § 193), respondent is assessed a civil penalty in the amount of Seventy-Five Thousand Dollars (\$75,000.00). The entire amount of the civil penalty will be held in abeyance for a five-year period beginning on the date that this Order becomes final and effective, provided that respondent complies with the terms of this Order. The \$75,000.00 civil penalty held in abeyance shall terminate at the end of the five-year period.

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 day after service of this Consent decision and Order on respondent.


Copies of this decision shall be served upon the parties.

  
Jeffrey H. Auerbach  
Respondent

  
Krishna G. Ramaraju  
Attorney for Complainant

Done at Washington, D.C.

this 26<sup>th</sup> day of January, 2012

  
PETER M. DAVENPORT  
Administrative Law Judge

*g*