

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 11-0381

In re: Jallaq Livestock, Inc., and
Majdi Jallaq, aka Mike Jallaq

Respondents

Default 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.) (Act), by a Complaint and Notice of Hearing filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that the Respondents willfully violated the Act. An Amended Complaint and Notice of Hearing was subsequently filed on October 6, 2011.

On September 6, 2011, copies of the Complaint and Notice of Hearing were mailed by the Hearing Clerk to Respondents by certified mail. The Hearing Clerk sent a cover letter with the Complaint and Notice of Hearing along with a copy of the Rules of Practice governing the proceeding. The cover letter stated that Respondents had 20 days from the receipt of the Complaint and Notice of Hearing in which to file an answer and that failure to file an answer would constitute an admission of the material allegations in the Complaint and Notice of Hearing and a waiver of Respondents' right to an oral hearing. On October 7, 2011, copies of the Amended Complaint and Notice of Hearing were mailed by the Hearing Clerk to Respondents by certified mail. The Hearing Clerk sent a cover letter with the Amended Complaint and Notice of

Hearing which stated that Respondents had 20 days from the receipt of the Amended Complaint and Notice of Hearing in which to file an answer and that failure to file an answer or plead specifically to any allegation in the Amended Complaint and Notice of Hearing would constitute an admission of that allegation.

Both the Complaint and Notice of Hearing and the Amended Complaint and Notice of hearing were returned to the Hearing Clerk's office as "unclaimed." The Complaint and Notice of Hearing and the Amended Complaint and Notice of Hearing were remailed on October 13, 2011, and November 8, 2011, respectively, to Respondents by regular mail. Under section 1.147(c)(1) of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.147(c)(1)) (Rules of Practice), when the Complaint and Notice of Hearing and the Amended Complaint and Notice of Hearing were returned as "unclaimed" after being mailed by certified mail, "[they] shall be deemed to be received by such party on the date of remailing by ordinary mail to the same address." 7 C.F.R. § 1.147(c)(1). Therefore, pursuant to section 1.147(c)(1) of the Rules of Practice (7 C.F.R. § 1.147(c)(1)), Respondents were served with the Complaint and Notice of Hearing and the Amended Complaint and Notice of Hearing on October 13, 2011, and November 8, 2011, respectively.

Complainant's attorney also sent a letter dated October 26, 2011, and a proposed consent decision to Respondents by certified mail. Respondents were informed in the letter that they could file an answer to the Amended Complaint and Notice of Hearing and request a hearing or that they could dispose of the matter by signing the proposed consent decision. Respondents Jallaq Livestock, Inc., and Majdi Jallaq, aka Mike Jallaq, failed to file an Answer to the Complaint and Notice of Hearing or the Amended Complaint and Notice of Hearing, nor did

they respond to the letter and proposed consent decision sent by Complainant's attorney. Accordingly, upon Complainant's motion, the following Findings of Fact, Conclusions of Law and Order will be entered pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Jallaq Livestock, Inc. (Corporate Respondent), was a corporation organized and existing under the laws of the State of Ohio. Corporate Respondent's corporate status was canceled on April 6, 2011, due to its failure to file corporate franchise tax reports and pay corporate taxes. Corporate Respondent's mailing address is in Grove City, Ohio.

2. At all times material to the Amended Complaint and Notice of Hearing, Corporate 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 products for sale or shipment in commerce; and
- (b) A packer within the meaning of, and subject to the provisions of, the Act.

3. Majdi Jallaq, aka Mike Jallaq (Individual Respondent) is an individual whose mailing address is in Grove City, Ohio.

4. At all times material to the Amended Complaint and Notice of Hearing, Individual Respondent was:

- (a) One hundred percent owner of Corporate Respondent;
 - (b) Registered agent of Corporate Respondent;
 - (c) Responsible for the direction, management, and control of Corporate Respondent;
- and

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

5. Corporate Respondent, under the direction, management, and control of Individual Respondent, in connection with its operations subject to the Act, on or about the dates and in the transactions set forth in Appendix A to the Amended Complaint and Notice of Hearing and incorporated herein by reference, issued checks in payment for livestock purchases, which checks were returned unpaid by the bank upon which they were drawn because Corporate Respondent did not have and maintain sufficient funds on deposit and available in the account upon which such checks were drawn to pay such checks when presented.

6. Corporate Respondent, under the direction, management, and control of Individual Respondent, in connection with its operations subject to the Act, on or about the dates and in the transactions set forth in Appendix A to the Amended Complaint and Notice of Hearing and incorporated herein by reference, and on or about the dates and in the additional transactions set forth in Appendix B to the Amended Complaint and Notice of Hearing and incorporated herein by reference, purchased livestock and failed to pay the full amount of the purchase price for such livestock within the time period required by the Act. As of September 27, 2011, approximately \$71,628.75 remains unpaid.

7. Corporate Respondent, under the direction, management, and control of Individual Respondent, in connection with its operations subject to the Act, failed to keep and maintain records which fully and correctly disclosed all the transactions involved in its business as a packer as required by section 401 of the Act (7 U.S.C. § 221). Specifically, Corporate Respondent failed to keep and maintain inventory records, a general ledger, an accounts payable ledger, an accounts receivable ledger, a check register, balance sheets, all purchase and sale invoices, documents permitting the tracing of livestock from purchase through slaughter, and

documents permitting the tracing of all payments made for livestock purchases.

8. In a sworn affidavit signed by Individual Respondent on September 14, 2011, Individual Respondent admitted that he had failed to keep and maintain a check register, balance sheets, and all purchase invoices, among other records.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. The Corporate Respondent is the *alter ego* of Individual Respondent.
3. Respondents willfully violated sections 202(a) and 409 of the Act (7 U.S.C. §§ 192(a), 228b) by failing to pay the full purchase price for livestock within the time specified in the Act and issuing checks in payment of livestock purchases which were not honored when presented for payment.
4. Respondents willfully violated section 401 of the Act (7 U.S.C. § 221), by failing to keep and maintain records that fully and correctly disclosed all transactions involved in their business.

Order

1. Respondent Jallaq Livestock, Inc., and Respondent Majdi Jallaq, aka Mike Jallaq, their agents and employees, directly or through any corporate or other device, in connection with their operations subject to the Act, shall cease and desist from:

(a) Issuing checks in purported payment of livestock purchases without having and maintaining sufficient funds on deposit and available in the account upon which such checks are drawn to pay such checks when presented;

(b) Failing to pay, when due, the full purchase price of livestock; and

(c) Failing to pay the full purchase price for livestock purchases.

2. Respondents shall keep and maintain accounts, records, and memoranda, which fully and correctly disclose the true nature of all transactions involved in their business subject to the Act as required by section 401 of the Act (7 U.S.C. § 221), including, but not limited to, inventory records, a general ledger, an accounts payable ledger, an accounts receivable ledger, a check register, balance sheets, all purchase and sale invoices, documents permitting the tracing of livestock from purchase through slaughter, and documents permitting the tracing of all payments made for livestock purchases.

3. Pursuant to section 203(b) of the Act (7 U.S.C. § 193(b)), Respondent Jallaq Livestock, Inc., and Respondent Majdi Jallaq, aka Mike Jallaq, are assessed, jointly and severally, a civil penalty in the amount of Seventy-Five Thousand Dollars (\$75,000.00).

4. This Decision and Order shall become final and effective without further proceedings thirty-five (35) days after service on Respondents, 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.

February 9, 2012

Peter M. Davenport
Chief Administrative Law Judge