

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:) P & S Docket No. 12-0494
)
)
New Lee's Live Poultry Market, Inc. and,)
Shen Chen)
)
Respondents) Decision Without Hearing By
) Reason of Consent

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 filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that Respondents New Lee's Live Poultry Market, Inc. and Shen Chen willfully violated the Act. This consent decision 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).

Respondents New Lee's Live Poultry Market, Inc. and Shen Chen 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, and consent and agree, for the purpose of settling this proceeding and for such purpose only, to the entry of this consent decision.

Complainant agrees to the entry of this consent decision.

Findings of Fact

1. New Lee's Live Poultry Market, Inc. (Respondent New Lee) is a corporation organized and existing under the laws of the State of New York. Its business mailing address is

122 Greenpoint Ave., Brooklyn, NY 11222.

2. Respondent New Lee, at all times material to the Complaint, was:

(a) Engaged in the business of obtaining live poultry by purchase in commerce for the purpose of slaughter; and

(b) Operating as a live poultry dealer subject to the provisions of the Act.

3. Shen Chen (Respondent Chen) is an individual whose current mailing address is in the State of New York. The address will not be stated in this consent decision to protect the privacy of Respondent Chen, but the address was provided to the Hearing Clerk's Office, United States Department of Agriculture, for the purposes of service.

4. Respondent Chen, at all times material to the Complaint, was:

(a) President of Respondent New Lee;

(b) One hundred percent owner of Respondent New Lee; and

(c) Responsible for the direction, management, and control of Respondent New Lee.

5. Respondent New Lee is the alter ego of Respondent Chen.

Conclusion

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

Order

Respondent New Lee and Respondent Chen, 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 delaying payment to poultry sellers in violation of section 410 of the Act (7 U.S.C. § 228b-1).

In accordance with section 411(b) of the Act (7 U.S.C. § 228b-2(b)), Respondent New Lee and Respondent Chen are assessed, jointly and severally, a civil penalty in the amount of Twelve Thousand Dollars (\$12,000.00) to be paid in accordance with the provisions of the Understanding With Respect to Civil Penalty entered into by the parties.

This Order shall have the same force and effect as if entered after full hearing. The provisions of this Order shall become effective on issuance.

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

Done at Washington, D.C.

this _____ day of _____, 2012

Administrative Law Judge

New Lee's Live Poultry Market, Inc.,
Respondent,

By: _____

Title: President

Shen Chen
Respondent

Leah C. Battaglioli
Attorney for Complainant