

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:) P. & S. Docket No. D-18-0057
)
JBS USA Food Company, fka JBS USA, LLC)
and Swift Beef Company,)
)
) Decision and Order without Hearing by
Respondent) Reason of Consent

This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. §§ 181-229c) (the Act), by a Complaint and Notice of Hearing filed by the Deputy Administrator, Fair Trade Practices Program, Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA), alleging that JBS USA Food Company, formerly operating under JBS USA, LLC and Swift Beef Company (Respondent) willfully violated the Act and regulations issued thereunder (the regulations). 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) (Rules of Practice).

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, waives all rights to seek judicial review and otherwise challenge or contest the validity of this decision, including waiving challenges to the Administrative Law Judge's authority to enter this Decision and Order under the Administrative Procedure Act and the Constitution of the United States, and waives any action against the United States Department of Agriculture under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 *et seq.*) for fees and other expenses incurred by Respondent in connection with this

proceeding or any action against any USDA employee in their individual capacity. Respondent consents and agrees, 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

Respondent is a corporation and/or limited liability company organized and existing under the laws of the State of Delaware, located in Greeley, Colorado. Its business mailing address is 1770 Promontory Circle, Greeley, CO 80634.

- (a) Respondent, at all times material herein, conducted operations at, among other places, 5950 Trails End Road, Cactus, TX 79013 (Swift Beef Company - Cactus)
- (b) Respondent, at all times material herein, conducted operations at, among other places, 800 N. 8th St., Greeley, CO 80631, (Swift Beef Company - Greeley).
- (c) Respondent is, and at all times material herein was:
 - 1. Engaged in the business of buying livestock in commerce for the purposes of slaughter;
 - 2. Engaged in the business of manufacturing or preparing meat and meat food products for sale or shipment in commerce; and
 - 3. A Packer within the meaning of and subject to the provisions of the Act.

Conclusion

Respondent 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, its successors and assigns, and its agents and employees, directly, or

indirectly, or through any corporate or other device, in connection with their operations subject to the Act, shall cease and desist from:

1. failing to install, maintain, and operate all scales used to weigh livestock carcasses for the purposes of purchase, sale, acquisition, payment, or settlement to ensure accurate weights;
2. failing to report to livestock sellers accurate livestock carcass weights.

Pursuant to section 401 of the Act, Respondent shall keep such accounts, records and memoranda so as to fully and correctly disclose the identity of a particular scale used to determine payment for each transaction where payment is made for livestock based upon at least in part the weight of carcasses so as to substantiate the settlement of each transaction, and shall provide a true written account to livestock sellers of the accurate weight of each carcass for such transactions.

In accordance with section 203(b) of the Act (7 U.S.C. § 193(b)), Respondent is assessed, jointly and severally, a civil penalty in the amount of twenty-nine thousand dollars (\$29,000.00), and will be sent via certified check or money order to:

USDA- GIPSA Lock Box
P.O. BOX 790335
ST. LOUIS, MO 63179-0335

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

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

Done at Washington, D.C.

this 28th day of June, 2018

[Redacted]

Acting Chief Administrative Law Judge

Channing D. Strother

JBS USA Food Company
Swift Beef Company,

Respondent,

By: [Redacted]

Title: Vice President and COO

[Redacted]

Nicholas White, General Counsel, CO#35909

Attorney Name

Attorney for Respondent

CHRISTOPHER
YOUNG

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