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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	
	)	
Jeremy Anderson,	)	P&S Docket No. 20-J-0141
	)	
and	)	
	)	
Hillel Shamam,	)	P&S Docket No. 20-J-0142
	)	
and	)	
	)	
Abe's Kosher Meats, LLC,	)	P&S Docket No. 20 J 0143
	)	
	)	
Respondents	)	Consent 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.) (the Act), by a complaint filed by the Deputy Administrator, Fair Trade Practices Program (FTPP), Agricultural Marketing Service (AMS), U.S. Department of Agriculture (USDA), alleging that respondents Jeremy Anderson, Hillel Shamam, and Abe's Kosher Meats, LLC (collectively, respondents), violated the Act and the regulations promulgated pursuant thereto (9 C.F.R. § 201.1 et seq.) (the regulations). This consent decision and order is entered pursuant to section 1.138 (7 C.F.R. § 1.138) of the Rules of Practice Governing Formal Adjudicatory Procedures Instituted by the Secretary under various Statutes (7 C.F.R. § 1.130 et seq.).

The respondents admit the jurisdictional allegations set forth in paragraph I of the complaint and specifically admit that the Secretary has jurisdiction in this matter; admit generally the factual allegations in paragraphs II, III, and IV of the complaint but deny the

factual allegations in paragraph V of the complaint; waive an oral hearing and further procedure; waive 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 under the Administrative Procedure Act and the Constitution of the United States; and waive 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 Respondents in connection with this proceeding or any action against any USDA employee in his or her individual capacity.

Complainant agrees to the entry of this consent decision and order.

Findings of Fact

1. Respondent Abe's Kosher Meats, LLC (respondent company), is a limited liability company organized under the laws of the State of Idaho. Its mailing address is 1906 W. Main Street, Burley, Idaho 83318. Respondent company, under the direction, management, and control of respondents Jeremy Anderson and Hillel Shamam, was, at all times material herein, engaged in the business of buying livestock in commerce for purposes of slaughter, and at all times material herein, was a packer within the meaning of and subject to the provisions of the Act.

2. Jeremy Anderson (respondent Anderson) is an individual with a business mailing address of 1906 W. Main Street, Burley, Idaho 83318. Respondent Anderson:

(a) is, and at all times material herein was, a partner in and 50% owner of respondent company,

(b) is, and at all times material herein was, responsible for the direction, management, and control of respondent company,

(c) at all times material herein was engaged in the business of buying livestock in commerce for purposes of slaughter,

and

(d) is, and at all times material herein was, a packer within the meaning of and subject to the provisions of the Act.

3. Hillel Shamam (respondent Shamam) is an individual with a business mailing address of 1906 W. Main Street, Burley, Idaho 83318. Respondent Shamam was, at all times, material herein:

(a) a partner in and 50% owner of Respondent company;

(b) the manager of Respondent company;

(c) responsible for the direction, management, and control of Respondent company;

(d) engaged in the business of buying livestock in commerce for purposes of slaughter,

and

(e) a packer within the meaning of and subject to the provisions of the Act.

4. During the period from June 1, 2018, through December 10, 2018, respondents purchased livestock but failed to pay, when due, the full purchase price of the livestock. As of the filing date of this consent decision and order, respondents still owe approximately $255,317.00 for these livestock purchases.

5. During the period from May 7, 2018, through December 16, 2018, respondents purchased livestock and failed to pay, when due, the full purchase price of the livestock within the time period required by the Act.

6. While processing the purchased livestock referenced in paragraphs 4 and 5 above,

respondents weighed livestock carcasses using a monorail scale that was not equipped with a printing device to record weight values and thereby failed to record hot carcass weights properly.

7. While processing the purchased livestock referenced in paragraphs 4 and 5 above, respondents deducted six (6) pounds from the hot weight of every cow carcass to offset the costs of offal and the disposal of downed animals and paid livestock sellers on the basis of the reduced hot carcass weights. As a result, respondents failed to pay livestock sellers the full amount due for the carcasses for which respondents improperly reduced the hot carcass weights.

Conclusion

Respondents having admitted the jurisdictional facts and the findings of fact set forth above, and the parties having agreed to the entry of this consent decision, the consent decision and order will be entered.

Order

Respondents Jeremy Anderson, Hillel Shamam, and Abe's Kosher Meats, LLC, their agents and employees, directly and through any corporate or other device, in connection with their operations subject to the Act, shall cease and desist from:

(a) failing to pay the purchase price of livestock, as required by sections 202(a) and 409 of the Act (7 U.S.C. §§ 192(a) and 228b);

(b) failing to pay, when due, the full purchase price of livestock, as required by sections 202(a) and 409 of the Act (7 U.S.C. §§ 192(a) and 228b);

(c) failing to use a monorail scale that is equipped with a printing device to accurately record hot carcass weights, as required by section 202(a) of the Act (7 U.S.C.§ 192(a)) and sections 201.49 and 201.71 of the regulations (9 C.F.R. §§ 201.49 and 201.71); and

(d) failing to pay livestock sellers the full amount due for the carcasses based on the accurately determined and properly recorded hot carcass weights, as required by section 202(a) of the Act (7 U.S.C. § 192(a)) and sections 201.49, 201.55, and 201.99 of the regulations (9 C.F.R. §§ 201.49, 201.55, and 201.99).

In accordance with section 203(b) of the Act (7 U.S.C. § 193(b)), respondents are hereby assessed, jointly and severally, a civil penalty in the amount of two hundred and fifty-five thousand three hundred and seventeen dollars ($255,317.00). The civil penalty, however, will be reducible dollar-for-dollar by restitution made by respondents to their unpaid livestock creditors, up to a total reduction of two hundred and fifty-five thousand three hundred and seventeen dollars ($255,317.00).

Respondents shall make restitution as follows:

(1) Respondents shall make direct payments to the unpaid livestock creditors identified herein for the amounts respondents owe them, as specified herein, until said creditors are paid in full. Those creditors and the amounts respondents still owed them as of September 2-3, 2020, the dates of complainant's most recent verification review at respondents' facility, are the following:

Acme Dairy	$68,475.66
Brian Bott	$6,322.43
Cache Cow Farms	$2,278.55
Sunrise Organic Dairy	$73,301.00
Tony Martin Dairies	$49,090.72
WK Dairy	$55,848.56
Total	$255,317.00

(2) To be credited as restitution that will reduce the civil penalty, payments must be made and delivered to the creditors named in paragraph (1) above by close of business on or before the ninetieth (90th) day after the effective date of this consent decision and order. Payment to each creditor shall be made in the form of one or more certified checks, money orders, or cashier's checks made payable to that creditor in the amount owed to that creditor as shown above or in amounts whose sum equals the amount owed to that creditor as shown above.

(3) Respondents must send evidence of the restitution payments (Attention: P&S Docket No. 20-J-0141, P&S Docket No. 20-J-0142, and P&S Docket No. 20-J-0143 Restitution) to the AMS Packers and Stockyards Division (PSD) Western Regional Office (WRO) within ninety-five (95) days of the effective date of this consent decision and order. Evidence of restitution must be sent to the WRO by registered mail at the following address: PSD Western Regional Office, One Gateway Center, 3950 Lewiston Street, Suite 200, Aurora, CO 80011-1556. Such evidence also may be scanned and sent electronically to counsel for the complainant at thomas.bolick@usda.gov. Proof of restitution payment shall consist of a photocopy of the certified checks, money orders, or cashier's checks referenced in paragraph (2) above and proof that full payment of the amount owed each creditor, as specified in paragraph (1) above, was delivered to each creditor by close of business on the ninetieth (90th) day after the effective date of this consent decision and order. Proof that payment was delivered within the time frames set forth in paragraph (2) above and this paragraph shall consist of one or more receipts from each creditor, signed and dated by said creditor and showing (a) the date(s) on which the said creditor received the certified check(s), money order(s), or cashier's check(s) and (b) the number of and amount made payable by each payment instrument presented to the creditor in payment of the

amounts owed as specified in paragraph (1) above.

(4) If respondents provide evidence of restitution in the form and by the deadline specified in paragraph (3) above and that evidence demonstrates that they have paid full restitution to the six (6) creditors named herein in the amounts indicated herein within ninety (90) days of the effective date of this consent decision and order, complainant will petition the Administrative Law Judge for a supplemental order canceling the entire two hundred and fifty-five thousand three hundred and seventeen dollar ($255,317.00) civil penalty.

(5) If respondents fail to provide evidence of full restitution in the form and by the deadline specified in paragraph (3) above, the two hundred and fifty-five thousand three hundred and seventeen dollar ($255,317.00) civil penalty shall become due and payable in full immediately, upon application of complainant to the Administrative Law Judge, without further procedure.

(6) If respondents fail to provide evidence of full restitution in the form and by the deadline specified in paragraph (3) above, but do provide evidence in the form and by the deadline specified in paragraph (3) above demonstrating that they have made only partial restitution to any of the livestock creditors named herein of the amounts still owed as set forth herein, complainant will petition the Administrative Law Judge for a supplemental order reducing the two hundred and fifty-five thousand three hundred and seventeen dollar ($255,317.00) civil penalty by the amount of restitution that respondents have made, dollar for dollar. The remainder of the two hundred and fifty-five thousand three hundred and seventeen dollar ($255,317.00) civil penalty shall become due and payable in full immediately, upon application of complainant to the Administrative Law Judge, without further procedure.

(7) If, prior to the entry of this order, respondents made payments to the creditors

named in paragraph (1) above for the purpose of paying the amounts still owed those creditors as specified in said paragraph, such payments will be credited as restitution that will reduce the civil penalty dollar for dollar, so long as respondents provide evidence of these payments by the deadline specified in paragraph (3) above. If these payments were not made by certified check, money order, or cashier's check, then evidence of these payments shall consist of a copy of the payment instrument and a copy of respondents' bank statement showing the date on which said payment instrument cleared their bank, plus a signed and dated receipt for said payment from the creditor, in the form specified in paragraph (3) above.

(8) In the event that some or all of the two hundred and fifty-five thousand three hundred and seventeen dollar ($255,317.00) civil penalty becomes due in full immediately by operation of the terms and conditions set forth in paragraphs (5) or (6) herein, respondents shall send a certified check or money order for the amount of the civil penalty that has become due and payable in full. Said certified check or money order shall be made payable to the U.S. Treasury and mailed to USDA-AMS-FTPP-PSD, P.O. Box 979064, St. Louis, Missouri 63197-9000. Respondents shall indicate on the certified check or money order that payment is in reference to P&S Docket Nos. 20-J-0141, 20-J-0142, and 20-J-0143.

The Administrative Law Judge shall retain jurisdiction in this matter for the purpose of assessing the appropriate civil penalty, upon application of the complainant as described in paragraphs (4), (5), and (6) herein.

The provisions of this order shall become effective upon service of this signed and executed order upon respondents or respondents' counsel.

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

Done at Washington, D.C.

this 22nd day of December, 2020.

[redacted]

Chief Administrative Law Judge

On Behalf of Tierney Carlos, Administrative Law Judge

Abe's Kosher Meats, LLC
Respondent

By: [redacted]

Title: Owner

[redacted]

Jeremy Anderson,
Respondent

[redacted]

Hillel Shamam,
Respondent

[redacted]

Preston N. Carter, Esq.
Attorney for Respondent

CHRISTOPHER YOUNG Digitally signed by CHRISTOPHER YOUNG Date: 2020.12.22 09:40:38 -05'00'

Christopher Young
USDA, Office of the General Counsel
For:
Thomas N. Bolick
Attorney for Complainant