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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

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In re:	)	P & S Docket No. 15-0087
	)	15-0088
Kenneth L. Smoker, L.L.C., and	)	
Kenneth L. Smoker	)	
	)	
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.) (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 Kenneth L. Smoker, LLC, and Kenneth L. Smoker willfully violated the Act and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.). 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 Kenneth L. Smoker, LLC, and Kenneth L. Smokeradmit 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. Kenneth L. Smoker, L.L.C., (Respondent Smoker, L.L.C.), is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania. Respondent Smoker, L.L.C.'s current mailing address is 3395 South Blackhorse Road, Parkesburg, PA 19365.

2. At all times material herein, Respondent Smoker, L.L.C. was:

   a. Engaged in the business of a market agency selling livestock in commerce on a commission basis;

   b. Registered with the Secretary of Agriculture as a market agency to sell livestock in commerce on a commission basis; and

   c. Engaged in the business of a livestock dealer buying and selling livestock in commerce for his own account.

3. Kenneth L. Smoker (Respondent Smoker) is an individual whose current mailing address is in the Commonwealth of Pennsylvania. The address has not been stated here to protect the privacy of Respondent Smoker.

4. At all times material herein, Respondent Smoker was:

   a. One hundred percent owner of Respondent Smoker, L.L.C.; and

   b. Responsible for the direction, management, and control of Respondent Smoker, L.L.C.

Conclusions

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

Respondents Kenneth L. Smoker, L.L.C., and Kenneth L. Smoker, their agents and employees, directly or indirectly through any corporate or other device, in connection with their activities subject to the Packers and Stockyards Act, shall cease and desist from:

1. Failing to pay, when due, the full purchase price of livestock;

2. Failing to pay the full purchase price of livestock;

3. Failing to properly maintain their Custodial Account for Shippers' Proceeds in strict conformity with the Act and section 201.42 of the regulations (9 C.F.R. § 201.42);

4. Failing to deposit in the custodial account for shippers' proceeds, within the time prescribed by section 201.42 of the regulations (9 C.F.R. § 201.42), an amount equal to the proceeds receivable for sales of consigned livestock; and

5. Operating while Respondent Kenneth L. Smoker, L.L.C.'s current liabilities exceed its current assets, a financial condition which does not comply with the requirements of the Act.

The Respondents are hereby suspended as registrants under the Act for a period of five (5) years beginning July 10, 2015. Provided, however, that upon application to the Packers and Stockyards Program, a supplemental order may be issued terminating the suspension of the Respondents at any time after one (1) year upon demonstration by the Respondents that they are in full compliance with the Act; and provided further, that this order may be modified upon application to the Packers and Stockyards Program to permit Respondent Kenneth L. Smoker's salaried employment by another registrant or a packer after the expiration of one (1) year of suspension upon demonstration of circumstances warranting modification of the order, such as a reasonable schedule of restitution.

This Order shall have the same force and effect as if entered after full hearing. The provisions of this Order shall become effective on the sixth day after service of this Consent Decision and Order on Respondents Kenneth L. Smoker, L.L.C., and Kenneth L. Smoker.

Copies of this Consent Decision and Order shall be served upon the parties.

Done at Washington, D.C.

this 22nd day of JUNE, 2015

[redacted]

Administrative Law Judge

JANICE K. BULLAND

Kenneth L. Smoker, LLC
Respondent,

By: [redacted]

Title: owner

[redacted]

Kenneth L. Smoker
Respondent

[redacted]

for Lauren C. Axley
Attorney for Complainant