

REC'D - USDA/OALJ/OHC
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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	P&S Docket No. D-20-J-0013
)	
Mike Perschbacher,)	
)	Consent Decision and Order
)	
Respondent)	

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. §§ 181, *et seq.*), by a complaint filed by the Deputy Administrator, Fair Trade Practices Program, Agricultural Marketing Service, Packers & Stockyards Division (PSD), United States Department of Agriculture, alleging that Respondent Mike Perschbacher willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. §§ 201.1, *et seq.*). This Consent Decision and Order is entered pursuant to the consent decision provision of the rules of practice applicable to this proceeding (7 C.F.R. § 1.138).

Respondent admits the jurisdictional allegations in paragraph I of the complaint, and specifically admits that the Secretary has jurisdiction in this matter, expressly denies or 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 Consent Decision and Order, including waiving challenges to the Administrative Law Judge's authority to enter this Consent 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.

The Respondent consents and agrees, for the purpose of settling this proceeding, to the entry of this Consent Decision and Order. Complainant agrees to the entry of this Consent Decision and Order.

Findings of Fact

1. Respondent Mike Perschbacher is an individual with a business mailing address of 1401 West Broadway, Sulphur, OK 73086.
2. Respondent was, at all times material herein:
 - (1) Engaged in the business of a market agency buying livestock in interstate commerce on a commission basis; and
 - (2) Not registered with the Secretary of Agriculture as a market agency to buy livestock in interstate commerce on a commission basis.

Conclusions

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

Order

Respondent Mike Perschbacher, his agents and employees, directly or indirectly through any corporate or other device, shall cease and desist from engaging in business in any capacity for which bonding is required under the Packers and Stockyards Act and the regulations promulgated thereunder without first becoming properly registered under the Act as required by section 201.10(a) of the regulations (9 C.F.R. § 201.10(a)), and without filing and maintaining an

adequate bond or its equivalent as required by the Act and by sections 201.29 and 201.30 of the regulations (9 C.F.R. §§ 201.29 and 201.30).

Pursuant to 7 U.S.C. § 204, Respondent, operating individually or through any corporate or other device, is prohibited from registering under the Act for a period of seven (7) days from the date that this Consent Decision and Order is final and effective and thereafter until he demonstrates that he has bond coverage acceptable to PSD. Upon such demonstration, Respondent may apply to the Packers & Stockyards Division for a supplemental order terminating the prohibition on his registering under the Act.

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondent Mike Perschbacher is hereby assessed a civil penalty in the amount of four thousand one hundred dollars (\$4,100). Within thirty (30) days of the final and effective date of this Consent Decision and Order, Respondent shall pay one thousand dollars (\$1,000). The remaining three thousand one hundred dollars (\$3,100) shall be paid in monthly installments of two hundred dollars (\$200) each for a period of fifteen (15) months, with a final one hundred dollar (\$100) payment due in the sixteenth (16) month. Each monthly payment shall be submitted on or before the fifteenth (15) day of each month until the three thousand one hundred dollars (\$3,100) is paid in full. All payments required by this Consent Decision and Order shall be made by certified check or money order payable to the U.S. Treasury. Respondent shall indicate on the certified check or money order that payment is made in reference to P&S Docket No. 20-J-0013. Respondent shall mail the certified check or money order to USDA-AMS-FTPP-PSD, P.O. Box 979064, St. Louis, Missouri 63197-9000.

Respondent shall keep and maintain all accounts, records, and memoranda that fully and accurately disclose all transactions involved in its business, as required by section 401 of the Act (7 U.S.C. § 221).

The provisions of this Consent Decision and Order shall become final and effective on the sixth day after service of the fully-executed Consent Decision and Order on the Respondent.

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

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Mike Perschbacher
Respondent

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Digitally signed by RACHEL BIRKEY
Date: 2020.05.27 09:04:12 -07'00'

Rachel A. Birkey
Attorney for Complainant

Done at Washington, D.C.

this 27 day of MAY, 2020

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Administrative Law Judge

JILL S. CLIFTON