



UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

2018 MAY 25 PM 2:06

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In re:	)	
	)	
Wagener Dairy Cattle, LLC,	)	P&S Docket No. D-18-0036
	)	
and	)	
	)	
Kenneth Wagener,	)	P&S Docket No. D-18-0037
	)	
Respondents	)	Consent Decision

This proceeding was arises under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*) (Packers and Stockyards Act) and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201 *et seq.*)(regulations). On May 24, 2018<sup>CDS</sup> a Complaint was filed by the Deputy Administrator, Fair Trade Practices Program (Packers and Stockyards Division), Agricultural Marketing Service, United States Department of Agriculture, alleging that Respondents willfully violated sections of the Packers and Stockyards Act and its attendant regulations. Complainant and Respondents have agreed to entry of this Decision, without hearing or further procedure, pursuant to the consent decision provisions 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).

Respondents 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 Decision.

### Findings of Fact

(1) Wagener Dairy Cattle, LLC (Respondent Wagener Dairy) is a Limited Liability Company organized under the Laws of the State of Minnesota. Respondent Wagener Dairy's registered office, principal place of business, and mailing address is 13800 102<sup>nd</sup> Street, Cologne, MN 55322.

(2) At all times material herein, Respondent Wagener Dairy was:

(a) Engaged in the business of a dealer, as that term is defined and used in the Act and the regulations promulgated thereunder; and

(b) Registered with the Secretary of Agriculture as a dealer, as that term is defined and used in the Act and the regulations promulgated thereunder.

(3) Kenneth Wagener (Respondent Wagener), is the sole owner and operator of Respondent Wagener Dairy and is responsible for the day to day direction, management, and control of Respondent Wagner Dairy.

(4) At all times material herein, Respondent Wagener was engaged in the business of a dealer, as that term is defined and used in the Act and the regulations promulgated thereunder.

### Conclusions

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

### Order

Respondents, their agents and employees, successors and assigns, directly or through any device, in connection with Respondents' activities subject to the Packers and Stockyards Act, shall cease and desist from purchasing livestock in commerce and failing to pay or failing to pay when due, the full purchase price of such livestock as prescribed by sections 312(a) and 409 of

the Packers and Stockyards Act (7 U.S.C. §§ 213(a) and 228b) and section 201.43 of the regulations (9 C.F.R. § 201.43).

Pursuant to 7 U.S.C. § 204, Respondents, operating individually or through any corporate or other device, are prohibited from registering under the Act for a period of five (5) years. However, Respondents may be allowed to register under the Act after a period of three (3) years, provided Respondents provide proof of payment in full for all amounts shown as owed in Exhibit A of this Consent Decision and Order.

This Order shall have the same force and effect as if entered after full hearing. The provisions of this Order shall become final and effective upon on the sixth (6th) day after service of this Consent Decision and Order on Respondents.

[Redacted]

Wagener Dairy Cattle, LLC  
Respondent

[Redacted]

Paul Melchert  
Attorney for Respondents

[Redacted]

Kenneth Wagener  
Respondent

[Redacted]

CHRISTOPHER YOUNG  
Attorney for Complainant

Done at Washington, D.C.,  
this 25<sup>th</sup> Day of May, 2018

[Redacted]

*Acting Chief*  
Administrative Law Judge  
*Channing B. Strother*



# Exhibit A

US Department of Agriculture Grain Inspection, Packers and Stockyards Administration Packers and Stockyards Program (P&SP) Schedule of Failure to Pay for Livestock (V9 7-25-13)							
Entity Information							
Investigation Date	Entity						
4/11/2016	Wagener Dairy Cattle, LLC Cologne, MN						
Exhibit Number	Initial Purchase/Check Date	Seller's Name	Location	Number of Head	Check Amount(s)	Adjustments or Payments	Unpaid Amount
A-1	5/21/2014	Ron Field	Hutchinson, MN	15	\$22,000.00	\$0.00	\$22,000.00
A-2	9/4/2015	Marvin Schroeder	Stillwater, MN		\$6,250.00	\$0.00	\$6,250.00
					\$10,000.00	\$0.00	
					\$16,250.00		
A-3	9/4/2016	Harry Nowak	Silver Lake, MN	3	\$3,600.00	\$0.00	\$3,600.00
	9/4/2016			1	\$1,800.00	\$0.00	
	9/10/2016			1	\$900.00	\$0.00	
					\$6,300.00		
A-4	10/22/2015	Tim Yaeger	Howard Lake, MN	15	\$5,000.00	-\$6,200.00	\$8,200.00
	10/25/2015				\$7,400.00		
					\$12,400.00		
A-5	10/31/2015	Tony Hesse	Chaska, MN	4	\$6,800.00	-\$3,400.00	\$3,200.00
						-\$200.00	
A-6	11/19/2015	Lyle Goetz	Waconia, MN	21	\$8,190.00	-\$6,000.00	\$2,190.00
A-7	12/1/2015	Henry Kauffman	Clarissa, MN		\$18,775.00	\$15.00	\$18,790.00
					\$16,385.00	\$15.00	
					\$35,160.00	\$30.00	
A-8	12/4/2015	Chester Kauffman	Clarissa, MN		\$5,800.00	\$50.00	\$5,850.00
A-9	12/11/2015	Steve Kelzer	Chaska, MN	7	\$10,675.00	\$0.00	\$10,675.00
A-10	12/11/2015	Ron Malecha	Jordan, MN		\$12,950.00	\$0.00	\$12,950.00
	12/11/2015				\$20,628.00	\$0.00	
	12/15/2015				\$34,000.00	-\$34,000.00	
	12/20/2015				\$38,378.00	\$0.00	
					\$105,956.00	-\$34,000.00	
A-11	12/30/2015	Ron Field	Hutchinson, MN	9	\$13,700.00	-\$10,000.00	\$3,700.00
A-12	1/28/2016	Wickenhauser Bros	Cologne, MN	12	\$9,000.00	\$0.00	\$9,000.00
A-13	2/2/2016	Henry Kauffman	Clarissa, MN		\$5,240.00	\$0.00	\$5,240.00
A-14	2/10/2016	Mike Strei	Lester Prairie, MN	5	\$7,625.00	\$0.00	\$7,625.00
A-15	2/23/2016	O&S Cattle	Inver Grove Heights, MN	8	\$12,200.00	\$0.00	\$12,200.00
A-16	4/15/2016	Miller Cattle Sales, Inc.	Howard Lake, MN	7	\$6,800.00	\$0.00	\$6,800.00
			Total				\$224,176.00

