

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) Docket No. D-19-J- 0145
Green Bay Dressed Beef, LLC,)
)
)
Respondent) Consent Decision and Order

REC'D - USDA/OALJ/DHC
2019 SEP 4 PM2:38

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, Agricultural Marketing Service (AMS), United States Department of Agriculture, alleging that the respondent violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 *et seq.*). This decision 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 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, and consents and agrees, for the purpose of settling this proceeding and for such purpose only, to the entry of this decision. Respondent 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.

Complainant agrees to the entry of this decision.

Findings Of Fact

1) Respondent is a corporation and/or limited liability company organized and existing under the laws of the State of Delaware, located in Green Bay, Wisconsin. Its business mailing address is 544 Acme St, Green Bay, Wisconsin 54302. Respondent, at all times material herein, conducted operations at 544 Acme St, Green Bay, Wisconsin 54302.

2) Respondent is, and at all times material herein was:

a) Engaged in the business of buying livestock in commerce for the purposes of slaughter;

b) Engaged in the business of manufacturing or preparing meat and meat food products for sale or shipment in commerce; and

c) A packer within the meaning of and subject to the provisions of the Act.

3) Respondent assisted and fully cooperated with the investigation.

Conclusions Of Law

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

Order

Respondent, its agents and employees, directly or through any corporate or other device, in connection with its operations subject to the Act, shall cease and desist from:

Failing to maintain a uniform weight of the hooks, rollers, gambrels or other similar equipment used in connection with the weighing of livestock carcasses; and failing to include only the weight of such equipment as the tare.

Respondent will audit its cattle procurement and payment records from March 5, 2018 to

March 5, 2019 in order to determine which livestock sellers were affected by Respondent's improper tare for non-uniform sized hooks.

Respondent shall provide the results of its audit to the, Packers and Stockyards Division by September 13, 2019.

Such payments shall total no less than \$127,051. Payments shall be sent to each seller's last known address. If a check is returned as undeliverable because of an incorrect address, Respondent shall use commercially available databases to locate the seller and proffer payment. Any check that is subsequently returned will be deemed undeliverable and Respondent is under no further obligation to locate the seller and proffer payment.

Respondent shall provide proof of payment to affected sellers to the Packers and Stockyards Division by September 30, 2019. Proof of payment shall be sent to Gary May at the following address: 210 Walnut Suite 317, Des Moines, Iowa 50309.

In accordance with section 203(b) of the Act (7 U.S.C. § 193(b)), Respondent is assessed a civil penalty of \$50,000 to be paid by certified check or money order made payable to the Treasurer of the United States and sent to USDA-AMS-FTPP-PSD, PO Box 979064, St. Louis, Missouri 63197-9000. The civil penalty will become due and payable 30 days after the effective date of this Order.

It is within FTPP's sole discretion to determine whether the terms of this agreement have been breached. However, in the event that FTPP finds that Respondent is not in compliance with the terms of this agreement, FTPP will notify Respondent of the breach by letter. The deficiency letter will be sent by certified U.S. Mail to the following individuals at the addresses set forth below:

Green Bay Dressed Beef, LLC
ATTN: ED ARNSTAD, VICE PRESIDENT
544 Acme St,
Green Bay, Wisconsin 54302

Respondent will have fourteen (14) calendar days from the date of receipt of the letter of notice to cure the deficiency identified in the letter.

The provisions of this Order shall become effective upon issuance. Copies of this decision shall be served upon the parties.

[Redacted]

Green Bay Dressed Beef, LLC
Respondent

[Redacted]

Geraint Powell
Attorney for Green Bay Dressed Beef, LLC

CHRISTOPHER
YOUNG

[Redacted]

Christopher Young
Attorney for Complainant

Done at Washington, D.C.
this 4th day of September 2019

[Redacted]

Chief

Administrative Law Judge

Channing D. Strother