

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) I & G Docket No. 04-0002  
)  
American Meats Processors, L.L.P.,<sup>C</sup>)  
)  
)  
Respondent ) STIPULATION AND  
) CONSENT DECISION

This is a proceeding under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. §§ 1621 *et seq.*)(hereinafter AMA) and the applicable rules and regulations to withdraw and deny the benefits of Federal Acceptance Services from American Meats Processors, L.L.P.<sup>C</sup> (hereinafter "Respondent Corporation"). This proceeding was commenced by a complaint filed on June 18, 2004, by the Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA), which is responsible for the administration of the Federal meat grading and acceptance services.

The parties have agreed that this proceeding should be terminated by entry of the Consent Decision set forth below and have agreed to the following stipulations:

1. For the purpose of this stipulation and the provisions of this Consent Decision only, Respondent Corporation admits all jurisdictional allegations of the complaint and waives:

- (a) Any further procedural steps;
- (b) Any requirement that the final decision in this proceeding contain findings and conclusions with respect to all material issues of fact, law, or discretion, as well as the reasons or bases thereof; and
- (c) All rights to seek judicial review or to otherwise challenge or contest the validity of this decision.

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2. This Consent Decision is for settlement purposes in this proceeding only and does not otherwise constitute an admission or denial by Respondent Corporation that it violated the regulations or statutes involved.

3. Respondent Corporation waives any action against the USDA under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504) for fees and other expenses incurred by Respondent Corporation in connection with this proceeding.

Findings of Fact

1. American Meats Processors, L.L.P.<sup>C</sup>, herein referred to as Respondent Corporation, is, and at all times material herein was, an entity incorporated in the State of ~~Kansas~~ <sup>NEVADA</sup>, which operates a meat grinding establishment at 1200 North Mosley, Wichita, Kansas 67214.

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2. At all times material herein, Respondent Corporation has requested and received federal acceptance services provided by Agricultural Marketing Service, USDA at its place of business in Wichita, Kansas.

3. At all times material herein, Cheryl R. Phillippi was Chief Executive Officer and an owner of Respondent Corporation.

Conclusion

Inasmuch as the parties have agreed to the provisions set forth in the Consent Decision in disposition of this proceeding, the following Order will be issued.

Order

Federal Acceptance Services provided under the AMA and regulations are, for a period of 24 months, withdrawn from and denied to Respondent Corporation, its officers, directors, partners, affiliates, successors, and assigns, directly or through any corporate or other device. Six (6) months of actual suspension of services will begin upon the issuance of this Order.

1. The remainder of the 24 month period will be held in abeyance and will not become effective provided that, in addition to all other requirements of Federal Acceptance Services, Respondent Corporation or any of its officers, partners, employees, agents, or affiliates shall not violate (as that term is defined herein below) any section of the AMA, or the rules and regulations promulgated thereunder, or any provision of this Order within 24 months of the effective date of this Order. [The term violate, as used in paragraph (a) herein, means a violation found upon conviction (or upon final affirmation of conviction, if appealed), or upon final decision in a formal adjudicatory proceeding before the Secretary (or upon final affirmation of the Secretary's decision, if appealed), and if it is found that there is any such violation of any term of this Order, the suspension of the withdrawal and denial of acceptance services under the AMA shall be terminated and denial will become effective immediately.]

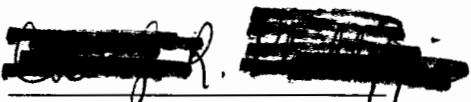
2. If a violation of paragraph 1 of this Order occurs during the 24 month period, the Administrator, AMS, shall have the right to permanently and summarily withdraw acceptance services upon a determination by the Deputy Administrator, Livestock and Seed Program, or other appropriate national headquarters staff member, of a violation of said paragraph. A permanent and summary withdrawal of acceptance services shall be subject to Respondent Corporation's right to request an expedited hearing on the violation(s) alleged. The Administrator's withdrawal of acceptance services shall remain in effect pending the final determination of the proceeding. Furthermore, nothing in this Stipulation and Consent Decision shall preclude the referral of any violation of paragraph 1 of this Order to the Department of Justice for possible criminal or civil proceedings.

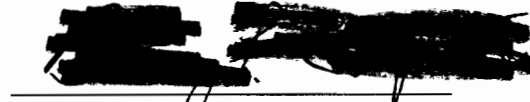
3. If Respondent Corporation opts to receive Federal grading or acceptance services after completion of the six (6) months of actual suspension of services, it shall submit an application

to the Chief, Meat Grading and Certification Branch, AMS, not more than thirty (30) days prior to the end of the six (6) month period. The Agricultural Marketing Service agrees to make an official grader available to perform such services for the applicant in accordance with established policies and procedures and all applicable laws and regulations.

4. If any provision of this Order is declared invalid, such declaration shall not affect the validity of any other provision herein.

5. This Order shall become effective on the 30th day after service of this Order on Respondent Corporation.

  
CHERYL R. PHILLIPPI  
Chief Executive Officer of  
American Meats Processors, L.L.P.,  
Respondent

  
BARRY L. CARPENTER  
Deputy Administrator, AMS,  
Livestock and Seed Division

  
THOMAS N. BOLICK  
Attorney for Complainant

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Issued this 18<sup>th</sup> day of August, 2004,

in Washington, D.C.

  
Administrative Law Judge