

UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re: ) P. & S. Docket No. D-05-0007  
)  
)  
Dale T. Smith & Sons Meat Packing )  
Company, Inc., Darrell H. Smith and )  
Dennis H. Smith, )  
) Decision Without Hearing by Reason of  
Respondents ) Consent

This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.) (hereinafter referred to as the "Act"), by a complaint and notice of hearing filed by the Deputy Administrator, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that Respondents willfully violated the Act and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.) (hereinafter referred to as the "regulations"). This decision is entered pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes applicable to this proceeding (7 C.F.R. § 1.138).

Respondents admit the jurisdictional allegations in paragraph I of the complaint and notice of hearing 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.

Complainant agrees to the entry of this decision.

### Findings of Fact

1. Respondent, Dale T. Smith & Sons Meat Packing Company, Inc. (hereinafter, "the corporate Respondent"), is a corporation whose business mailing address is P.O. Box 479, Draper, Utah 84020 or 12450 South Pony Express Road, Draper, Utah 84020.

2. The corporate Respondent was, at all times material herein:

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

(b) A packer within the meaning of and subject to the Act.

3. Darrell H. Smith (hereinafter, "Respondent "Darrell Smith"), is an individual whose mailing address is 13576 South Ivy Manor Lane, Draper, Utah 84020.

4. Respondent Darrell Smith was, at all times material herein:

(a) The president and owner of 33 $\frac{1}{3}$ % of the stock of the corporate Respondent; and

(b) Responsible for the direction, management and control of the corporate Respondent, including the acts and practices alleged herein.

5. Dennis H. Smith (hereinafter, "Respondent Dennis Smith") is an individual whose mailing address is 11513 South Chapel Rim Way, South Jordan, Utah 84095.

6. Respondent Dennis Smith was, at all times material herein:

(a) A vice-president and owner of 33 $\frac{1}{3}$ % of the stock of the corporate Respondent, who is responsible for the receiving and weighing of livestock at the corporate Respondent; and

(b) Responsible for the direction, management and control of the corporate Respondent, including the acts and practices alleged herein.

Conclusions

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

Order

Respondents Dale T. Smith & Sons Meat Packing Company, Inc., Darrell H. Smith and Dennis H. Smith, their agents and employees, directly or through any corporate or other device, in connection with their activities subject to the Act, shall cease and desist from:

1. Failing to pay the full amount of the purchase price for livestock within the time period required by the Act;
2. Failing to retain, and pay its livestock sellers from the record of the hot carcass weights recorded from a scale equipped with a printing device, in order to substantiate settlement with the livestock sellers on each transaction, in which livestock is purchased on a carcass weight basis; and
3. Failing to maintain the identity of each seller's livestock and the carcasses derived therefrom for livestock purchased on a carcass weight basis.


Pursuant to section 203(b) of the Act (7 U.S.C. § 193(b)), Respondents are assessed a civil penalty, jointly and severally, in the amount of Eleven Thousand Dollars (\$11,000.00), which will be paid in accordance with the terms of the Understanding Regarding Civil Penalty Payment Terms agreed to by the parties.

The provisions of this order shall become final and effective upon issuance.


Copies of this decision shall be served upon the parties.


Issued this 19<sup>th</sup> day of  
July, 2005.

   
Administrative Law Judge

  
Darrell H. Smith, President  
for Dale T. Smith & Sons Meat Packing  
Company, Inc.

  
Darrell H. Smith

  
Dennis H. Smith  
Respondents

  
John W. Call, Esq. *CD*  
Attorney for Respondents

  
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Attorney for Complainant