

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
Mark A. Oberly) Docket No. D-22-J-0010
d.b.a. Oberly Brothers Livestock,)
)
Respondent) Consent Decision and Order

REC'D - USDA/OALJ/HCO
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This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.) (Act), by a complaint filed by the Deputy Administrator, Fair Trade Practices Program, Agricultural Marketing Service (AMS), United States Department of Agriculture, alleging that Respondent willfully 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, admits the remaining allegations as set forth herein as findings of fact and conclusions of law, waives oral hearing and further procedure, 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.

The parties consent and agree, for the purpose of settling this proceeding, to the entry of

this Decision and Order.

FINDINGS OF FACT

1. Mark Oberly doing business as Oberly Brothers Livestock (hereinafter "Respondent") is an individual whose mailing address is (b) (6)
(b) (6)
2. Respondent is, and at all times material herein, was:
 - (a) Engaged in the business of a dealer buying and selling livestock in commerce.
 - (b) Registered with the Secretary of Agriculture as a dealer buying and selling livestock in commerce and as a market agency buying livestock in commerce on a commission basis.

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

1. Respondent, his agents and employees, directly or through any corporate or other device, in connection with all operations subject to the Act, shall cease and desist from:
 - (a) failing to pay, when due, the full purchase price of livestock; and
 - (b) failing to maintain adequate records that disclose the true nature of any and all of Respondent's transactions subject to the Act, including but not limited to: purchase records, sales records, invoices, checks in purported payment of transactions, or equivalent information, bank records.

2. In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondent is hereby suspended as registrant under the Act for a period of five (years).

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



Mark A. Oberly
Respondent

CHRISTOPHE
R YOUNG

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CHRISTOPHER YOUNG
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Christopher Young
Attorney for the Complainant

Done at Washington, D.C.
this 19th day of November, 2021

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STROTHER

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CHANNING STROTHER
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Chief Administrative Law Judge