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UNITED STATES DEPARTMENT OF AGRICULTURE ^{3:03}

BEFORE THE SECRETARY OF AGRICULTURE RECEIVED

Docket No. D-11-0001

In re: Brad Bradley d/b/a
Farm Direct Pork Company,

Respondent

Decision and Order

This is a disciplinary proceeding brought under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. §181 *et seq.*) (Act). On October 10, 2010, a Complaint was issued against Brad Bradley d/b/a Farm Direct Pork Company (Respondent) alleging that Respondent engaged in the business of a dealer purchasing and selling livestock in commerce without obtaining the necessary registration and bond as required by the Act and the Regulations, and that Respondent purchased livestock and failed to pay for those livestock purchases as required by the Act and the Regulations.

On November 23, 2010, Respondent's Answer to the Complaint was filed. Respondent stated in his Answer, *inter alia*, that:

I agree with all allegations within said Complaint.
I have remained in contact with the National Farmers Organization¹ on a continual basis, related to this issue. At this point in time I do not have the monetary resources to satisfy same, however my future intent is to pay same.

Based on the admissions contained in Respondent's Answer, Complainant moved for a decision without hearing or further procedure in this case pursuant to section 1.139 (7 C.F.R. §

¹ National Farmers Organization is the livestock seller listed in the Complaint filed on October 10, 2010.

1.139) of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (Rules of Practice). *See In re: Pryor Livestock Market, Inc., Jim W. Deberry and Douglas A. Landers*, 56 Agric. Dec. 843, 845 (1997). Respondent has admitted in his Answer all material allegations of the Complaint.

Accordingly, Complainant's motion will be granted and the following Finding of Fact, Conclusions of Law and Order will be

Findings of Fact

1. Respondent is an individual whose business mailing address was in Del Rio, Texas.
2. At all times material to the Complaint, Respondent engaged in the business of a dealer buying and selling livestock in commerce under the Act.
3. At all times material to the Complaint, Respondent operated as a dealer within the meaning of and subject to the Act.
4. On March 18, 2010, Respondent admitted in a signed affidavit that he operated subject to the Act without registering with the Packers and Stockyards Program and maintaining a bond as required by the Act, and stated that he would "cease and desist from buying swine until registered and bonded with the Packers and Stockyards administration and its regulations... ."
5. Respondent, between November 2009 and January 2010, operated as a dealer purchasing livestock (swine) subject to the Act and engaged in the business of a dealer purchasing and selling livestock in commerce without obtaining the necessary registration and bond as required by the Act and the Regulations.
6. Between December 16, 2009 and January 5, 2010, Respondent purchased 1,229 head of livestock in the amount of \$180,551.63.

7. Between December 3, 2009 and January 7, 2010, Respondent sold 1,838 head of livestock (swine) in the amount of \$ 274,042.54.

8. Respondent, on August 15, 2009, entered into a contract wherein he agreed to pay a purchase price for livestock (swine). Between November 2009 and December 2009, Respondent purchased 2,174 head of livestock pursuant to the contract and paid \$6,648.12 less than the agreed upon price under the contract.

9. Respondent, between December 16, 2009 and January 5, 2010, purchased 1,229 head of livestock in the amount of \$180,551.63 from one (1) seller in twelve (12) separate transactions and failed to pay for such livestock purchases.

10. As of the date of filing of the Complaint, neither the \$6,648.12 amount nor the \$180,551.63 amount had been paid.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. Respondent admitted in his Answer the jurisdictional allegations of the Complaint.
3. Respondent also admitted all material allegations of the Complaint, including that he operated without registration and bond and failed to pay for livestock purchases as required by the Packers and Stockyards Act.
4. It is unnecessary to hold a hearing when there is no material fact in dispute, and no valid defense is presented.
5. Operation without proper bond and registration in accordance with section 312(a) of the Act (7 U.S.C. § 213(a)) and section 201.29 of the regulations (9 C.F.R. § 201.29) is a violation of those sections of the Act and regulations.
6. Failure to pay for livestock is an unfair and deceptive practice in violation of section

312(a) and 409 of the Act (7 U.S.C. §§ 213(a), 228b) and section 201.43 of the regulations (9 C.F.R. § 201.43).

Order

1. Respondent, his agents and employees, directly or through any corporate or other device, in connection with all activities subject to the Act, shall cease and desist from:

a. engaging in the business of a dealer purchasing and selling livestock in commerce without obtaining the necessary registration and bond as required by the Act and the Regulations, and

b. purchasing livestock and failing to pay for those livestock purchases as required by the Act and the Regulations.

2. Respondent is assessed a civil penalty of one hundred and nine thousand dollars (\$109,000.00), to be abated up to the full amount of \$109,000.00, provided that Respondent makes payments to National Farmers Organization, the livestock seller listed in the Complaint (or shows that payments have been made between the date of the Answer and this Motion) for the livestock that Respondent purchased between December 2009 and January 2010, as stated above.

3. Complainant shall be the final arbiter of whether payment has been made. Proof of payment to livestock producers shall be received by December 31, 2011, and on that date, the \$109,000.00 civil penalty will be abated in the amount that National Farmers Organization has been paid.

4. Any remainder² will be paid as a civil penalty without further proceeding, payable to the United States Treasury by January 15, 2012. Proof of payment to the livestock seller listed in the Complaint be mailed to:

USDA
GIPSA
1400 Independence Ave., S.W.
Room 2420-S, Stop 3646
Washington, D.C. 20250

Payment of the civil penalty or of the remainder of the penalty shall be by mail or wire transfer to :

USDA
GIPSA
P.O. Box 790335
St. Louis, MO
63179-0335

5. This order shall be effective upon service on Respondent.

Copies of this Decision and Order shall be served on the parties by the Hearing Clerk.

August 2, 2011.



PETER M. DAVENPORT
Administrative Law Judge

² \$109,000.00 civil penalty minus the amount proven as paid to the seller listed in the Complaint, National Farmers Organization.