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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P & S Docket No. 12-0468
)
National Beef Packing Company,)
LLC,)
)
Respondent) Consent Decision

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 and Notice of Hearing filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that Respondent National Beef Packing Company, LLC willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 et seq.) (Regulations). This Decision is entered pursuant to the consent decision provision of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statues (7 C.F.R. § 1.138).

Respondent National Beef Packing Company, LLC admits the jurisdictional allegations in paragraph I of the Complaint and Notice of Hearing 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.

Complainant agrees to the entry of this Decision.

Findings of Fact

1. National Beef Packing Company, LLC (Respondent), is a limited liability company organized and existing under the laws of the State of Delaware. Its business mailing address is P.O. Box 20046, Kansas City, Missouri 64195.

2. At all times material to the Complaint and Notice of Hearing, Respondent was:
 - (a) Engaged in the business of buying livestock in commerce for the purposes of slaughter; and
 - (b) A packer within the meaning of, and subject to the provisions of, the Act.

Conclusion

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

Order

Respondent National Beef Packing Company, LLC, 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 the following:

1. Failing to disclose, or otherwise make known to livestock sellers, an accurate accounting of the cattle purchased by Respondent in accordance with section 201.99 of the Regulations (9 C.F.R. § 201.99), including but not limited to failing to adequately identify and correct data errors prior to determining the final pricing of cattle purchased by Respondent pursuant to quality-based pricing grids;
2. Failing to disclose, or otherwise make known to livestock sellers, the correct freight charge deductions taken on cattle purchased by Respondent pursuant to quality-based pricing grids in accordance with section 201.99 of the Regulations (9 C.F.R. § 201.99);
3. Failing to disclose, or otherwise make known to livestock sellers, data errors that affect the prices Respondent pays for cattle purchased pursuant to quality-based pricing grids in accordance with section 201.99 of the Regulations (9 C.F.R. § 201.99); and

4. Failing to maintain and operate an accurate scale for the purpose of determining livestock carcass weights in accordance with section 201.71 of the Regulations (9 C.F.R. § 201.71), including but not limited to operating a scale that fails to meet the applicable accuracy tolerances for dynamic monorail scales contained in the General Code, Scales Code, and Weights Code of the 2009 edition of the National Institute of Standards and Technology Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices."

Pursuant to section 203(b) of the Act (7 U.S.C. § 193(b)), Respondent is hereby assessed a civil penalty in the amount of Thirty-Two Thousand Five Hundred Dollars (\$32,500.00).

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

Done at Washington, D.C.

this 12th day of JUNE, 2012


Administrative Law Judge

JANICE K. BULLARD

National Beef Packing Company, LLC
Respondent, 

By: 

Title: VP Cattle Procurement


Brett T. Schwemer
Attorney for Respondent


Leah C. Battaglioli
Attorney for Complainant