

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

FMIA Docket No. 10-0038

PPIA Docket No. 10-0038

In re: UNADILLA VALLEY PACKERS
and KENNETH E. BARROWS,

Respondents

DEFAULT DECISION AND ORDER

This is an administrative proceeding to deny federal inspection services to Respondent Unadilla Valley Packers and Respondent Kenneth E. Barrows (hereinafter Respondents). This proceeding was instituted by a complaint filed on November 23, 2009 by the Administrator of the Food Safety and Inspection Service, United States Department of Agriculture. The complaint alleges respondents are unfit to receive federal inspection services under Title I of the Federal Meat Inspection Act, as amended, (“FMIA”), 21 U.S.C. § 601 *et seq.* and the Poultry Products Inspection Act, as amended (“PPIA”), 21 U.S.C. § 451 *et seq.*

Copies of the complaint and the rules of practice (7 C.F.R. § 130 *et seq.*) governing proceedings under the Acts were served upon Respondents by the Hearing Clerk by certified mail. Respondents were informed in a letter of service that an answer should be filed pursuant to the rules of practice and that failure to answer would constitute an admission of all the material allegations contained in the complaint.

Respondents have failed to file an answer within the time prescribed in the rules of practice, and the material facts alleged in the complaint are admitted by respondents’ failure to file an answer, and the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. Unadilla Valley Packers, respondent business, is and at all times material herein was, a very small meat slaughter and processing facility located in Bridgewater, New York, and whose mailing address is Unadilla Valley Packers, P.O. Box 395, Bridgewater, New York 11313.
2. Respondent Kenneth E. Barrows, who resides in Bridgewater, New York is, and at all times material herein was, an applicant and a responsibly connected individual to Unadilla Valley Packers, employed by Unadilla in a managerial or executive capacity. Mr. Barrows is responsible for implementing food safety and sanitation programs at Unadilla in compliance with federal regulatory requirements in order to prevent the adulteration of meat and meat food products and ensure such products are safe and wholesome.
3. On August 3, 2009, respondent Barrows submitted to the Food Safety and Inspection Service (“FSIS”) an application for federal inspection services under the FMIA and PPIA.
4. On January 29, 1997, in the Otsego County Court, Otsego County, Cooperstown, New York, Mr. Kenneth E. Barrows was convicted of the offense of Arson, 3rd degree, a Class C felony, sentenced on March 7, 1997, and served a term of incarceration.
5. On March 11, 1997, in the Herkimer County Court, Herkimer County, Herkimer, New York, Mr. Kenneth E. Barrows was convicted of the offense of Criminal Possession of Stolen Property, a Class E felony, sentenced on March 11, 1997 and served a term of incarceration.
6. On July 26, 2004, the FSIS Acting Administrator filed a administrative complaint before the Secretary of Agriculture, *In re: Steven Matteson, Kenneth E. Barrows, North American Packers, d/b/a Schallers Meats*, (FMIA Docket No. 04-0007 and PPIA Docket No. 04-0008), seeking denial of inspection services under the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*) and

Title I of the FMIA from respondents, based on the two felony convictions of respondent Kenneth E. Barrows.

7. On July 27, 2004, Administrative Law Judge Marc R. Hillson issued a Stipulation and Consent Decision denying inspection and holding the denial of inspection services in abeyance for a period of three (3) years so long as respondents complied with specified terms and conditions of the consent order.

8. On October 26th, 2005, Administrative Law Judge Peter M. Davenport issued a Default Decision and Order withdrawing federal inspection services from respondents for violating the FMIA and the PPIA, the regulations issued thereunder and the specified conditions of the Stipulation and Consent Decision issued on July 27, 2004.

9. From 2008 until the present, Respondent Barrows acted as the manager responsible for implementing the food safety and sanitation programs at Unadilla Valley Packers, Est. No. 34567, in compliance with federal regulatory requirements. (*See* Paragraph I(b)).

10. From June 2009 through October, 2009, FSIS suspended inspection services at Unadilla in June, August and October for violating food safety and sanitation regulatory requirements, including but not limited to failing to effectively implement food safety and sanitation programs, producing meat product adulterated with the bacterial microorganism *E. coli* O157:H7 and failing to remove specified risk materials from meat carcasses.

11. On November 23, 2009, the FSIS Administrator filed a complaint before the Secretary of Agriculture, *In re: Unadilla Valley Packers, Martin Nightingale and Kenneth E. Barrows*, (FMIA Docket No. 10-0037), seeking withdrawal of inspection services because the respondents failed to maintain sanitary conditions or operate in a manner sufficient to prevent the adulteration of meat and

meat food products as required by Title I of the FMIA and the regulations promulgated thereunder. The FSIS Administrator also sought withdrawal of inspection services based on respondent Barrows' felony convictions.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. By reason of the facts found in the Findings of Fact respondents are unfit to engage in any business requiring inspection services under Title 1 of the FMIA and PPIA.

Order

1. Federal inspection services to respondents Unadilla Valley Packers and Kenneth E. Barrows are hereby denied.
2. Respondents have thirty (30) days from service of the Decision and Order to appeal the decision to the Judicial Officer by filing an appeal petition with the Hearing Clerk. 7 C.F.R. 1.145.
3. If no appeal is filed, the Decision and Order shall become final and effective without further proceedings thirty-five (35) days after the date of service; provided, however, that no decision shall be final for purposes of judicial review except a final decision of the Judicial Officer upon appeal. 7 C.F.R. § 1.139.

Copies of the Decision and Order shall be served by the Hearing Clerk upon respondents

Done at Washington, D.C.
April 12, 2010

PETER M. DAVENPORT
Acting Chief Administrative Law Judge