

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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RE ED

In re:)
) P & S Docket No. D-11-0362
)
Upchurch Livestock, Inc.,)
)
)
)
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.), (the Act), by a Complaint filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that Respondent willfully violated the Act. This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

Respondent admits the jurisdictional allegations in paragraph I of the Complaint 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. Upchurch Livestock, Inc., the Respondent, is a corporation organized and existing under the laws of the state of Kentucky. Respondent's mailing address is: P.O. Box 76, Science Hill, Kentucky, 42553.

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

(1) Engaged in the business of buying and selling livestock in commerce for its own account as a dealer; and

(2) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for its own account.

Conclusions

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

Order

1. Respondent, its agents and employees, directly or through any corporate or other device, in connection with activities subject to the Act, shall cease and desist from failing to pay, when due, the full purchase of livestock as required by section 409 of the Act (7 U.S.C. §228b).

2. In accordance with section 312(b) of the Act (7 U.S.C. 213(b)), Respondent is assessed a civil penalty of \$ 4,000.

The provisions of this order shall become effective on the sixth day after service of this order on the Respondent.

Copies of this decision shall be served upon the parties.

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Addendum: Understanding Re: Civil Payment
Respondent and Complainant agree that: Respondent will pay the \$4,000 civil payment in 24 equal installments of \$166.66 beginning on October 2, 2012. Furthermore, if Respondent fails to make timely installment payments the full outstanding amount will become due immediately. Monthly installment payments after the October 2, 2012 payment will be due on the 30th of each month beginning with October 30, 2012 and shall be mailed to:

Qu. 3 BPJ

Somerset, Kentucky
JSC

Issued in ~~Washington D.C.~~

this 18 day of sept, 2011 2012
JSC



Administrative Law Judge

Jill S. Clifton



Respondent

Jansen Upchurch Upchurch hirstel

Attorney for Respondent



Brian P. Sylvester, Esq.

Attorney for Complainant