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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P&S Docket No. 08-0038
)
National Beef Packing Company,)
LLC,)
)
Respondent) Consent Decision

This is a disciplinary proceeding under the Packers and Stockyards Act (7 U.S.C. § 181 *et seq.*), hereinafter the "Act." On December 21, 2007, a Complaint and Notice of Hearing ("Complaint") was issued against Respondent National Beef Packing Company, LLC ("Respondent") alleging that during the period of December 27, 2005 through January 21, 2006, Respondent willfully violated section 202(a) of the Act (7 U.S.C. § 192(a)) and section 201.99 of the regulations (9 C.F.R. § 201.99) by failing to disclose or to make known to livestock sellers a freight charge deduction and data error that affected the prices that Respondent paid for cattle purchased pursuant to quality-based pricing grids.¹ The Complaint alleged that livestock sellers delivering cattle to Respondent's plants in Dodge City, Kansas and Liberal, Kansas received \$18,775.39 less for their cattle during the period of December 27, 2005 through January 21, 2006 than they would have received if Respondent had not included an undisclosed freight deduction and data error in Respondent's grid-based pricing calculations.

¹ Respondent's quality-based grids are pricing formulas that are used to set the prices that are paid to producers who sell cattle to Respondent's plants on a carcass grade and weight basis. Respondent's quality-based grids are not the only valuation mechanism available to producers contracting for the sale of cattle to Respondent's plants. Respondent also purchases cattle on a liveweight basis and on other carcass weight pricing formulations.

Complainant and Respondent National Beef have now agreed to entry of this Decision, without hearing or further procedure, pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (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.

Findings of Fact

1. Respondent National Beef Packing Company, LLC 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. Respondent is, and at all times material herein 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.

Conclusions

Respondent having admitted the jurisdictional facts and the parties having agreed to the entry of this Decision, such 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 Respondent's activities subject to the Packers and Stockyards Act, shall cease and desist from failing to disclose, or otherwise make known to livestock sellers, freight charge deductions and data errors that affect the prices that Respondent pays for cattle purchased pursuant to quality-based pricing grids.

In accordance with section 203(b) of the Act, (7 U.S.C. § 193(b)), Respondent is hereby assessed a civil penalty of fifty thousand dollars (\$50,000) payable in accordance with the terms of the "Understanding Regarding Consent Decision," P&S Docket No. 08-0038, entered between the parties.

The provisions of this Order shall become effective on the sixth (6th) day after service on Respondent.

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

NATIONAL BEEF PACKING COMPANY, LLC
Respondent,

By:

A large black rectangular redaction covers the signature of the respondent.

VP Cattle Procurement
Title

[REDACTED]

BRETT T. SCHWEMER, ESQ.
Attorney for Respondent

[REDACTED]

CHARLES E. SPICKNALL
Attorney for Complainant

Issued in Washington D.C.

this 4th day of March, 2008

[REDACTED]

ADMINISTRATIVE LAW JUDGE