

USDA
OFFICE OF CHIEF
UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

P & S Docket No. D-10-0051

In re:)
)
Noah's Ark Processors Corp.)
a.k.a. Noah's Ark Processors, LLC,)
)
Respondent) Decision Without Hearing
By Reason of Consent

I

Preliminary Statement

This is a disciplinary proceeding under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.), herein referred to as the "Act," instituted by a Complaint filed on December 2, 2009 by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, charging that Noah's Ark Processors Corp. a.k.a. Noah's Ark Processors, LLC, hereinafter referred to as "Respondent," willfully violated the Act. This decision is entered pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes (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.

II

Findings of Fact

- 1) Noah's Ark Processors Corp. a.k.a. Noah's Ark Processors, LLC is a limited liability company, whose business mailing address is 1821 311th Avenue, Dawson, Minnesota 56232.
- 2) At all times material herein, Respondent was:
 - a. engaged in the business of purchasing livestock in commerce for the purpose of slaughter and of manufacturing or preparing meats or meat food products for sale or shipment in commerce; and
 - b. a packer within the meaning of the Act 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, the decision will be entered.

Order


In accordance with section 203(b) of the Act (7 U.S.C. § 193(b)), Respondent is assessed a civil penalty in the amount of Four Thousand, Five Hundred Dollars (\$4,500.00) for willful violation of section 202(a) of the Act (7 U.S.C. § 192) and section 201.29 of the Regulations (9 C.F.R. § 201.29).¹ This civil penalty shall be paid in accordance with the provisions of the Understanding with Respect to Civil Penalty entered into by the parties.

¹ Noah's Ark filed the required \$95,000 bond equivalent on December 14, 2009 date, 12 days after issuance of the complaint in the instant proceeding. Specifically, the Midwestern Regional Office (MRO) of the Packers and Stockyards Program received a Trust Fund Agreement (TFA) from Respondent, in the amount of \$95,000 on December 14, 2009 (nine months after Respondent received the letter notifying them they needed a replacement financial instrument, and twelve days after GIPSA issued the complaint against Respondent for operating without bond). The TFA was determined to be acceptable, and MRO mailed a trustee responsibility letter back to Respondent, indicating the assigned TFA number, on January 22, 2010.

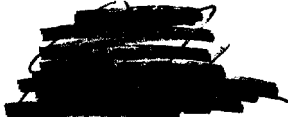
This Order shall have the same force and effect as if entered after full hearing. The provisions of this Order shall become final and effective upon issuance (7 C.F.R. § 1.138).

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


Done at Washington, DC
this 9th day of March 2010



Administrative Law Judge



Ephraim A. Bulow, Esq.
Attorney for Respondent



Brian P. Sylvester, Esq.
Attorney for Complainant
