

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:) P & S Docket No. D-15-0070
)
)
Birdsboro Kosher Farm Corporation,)
)
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 the respondent willfully violated the Act and the regulations issued thereunder (9 C.F.R. § 201.1 *et seq.*). 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).

The 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.

The complainant agrees to the entry of this decision.

Findings of Fact

1. Birdsboro Kosher Farm Corporation, hereinafter referred to as the respondent, is a business incorporated in the Commonwealth of Pennsylvania and located at 1110 Lincoln Road, Birdsboro, Pennsylvania 19508.

2. Respondent at all times material herein, was engaged in the business as a live poultry dealer in the Commonwealth of Pennsylvania.

Conclusions

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

Order

The respondent, his agents and employees, directly or through any corporate or other device, in connection with activities subject to the Act, shall do the following:

1. Respondent shall cease and desist from paying growers not in accordance with the Packers and Stockyards Act. Respondent, as a live poultry dealer, shall pay live poultry growers in accordance with 7 U.S.C. § 228b-1(a) of the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*). Each live poultry dealer obtaining live poultry by purchase in a cash sale shall, before the close of the next business day following the purchase of poultry, and each live poultry dealer obtaining live poultry under a poultry growing arrangement shall, before, the close of the fifteenth day following the week in which the poultry is slaughtered, deliver, to the cash seller or poultry grower from whom such live poultry dealer obtains the poultry, the full amount due to such cash seller or poultry grower on account of such poultry.

2. In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), respondent Birdsboro Kosher Farms Corporation is assessed a civil penalty of thirty-four thousand dollars (\$34,000.00), of which twenty thousand dollars (\$20,000.00) shall be held in abeyance for a period of one year for so long as respondent does not violate the provisions of this order. If, after

hearing and appeal, it is found that the respondent has violated the provisions of the order within the one year period, the remaining \$20,000.00 shall be due and payable immediately, although such payment shall not be considered a stipulated judgment or sanction for such proven future violations. If, during the one year period following the effective date of this order, respondent has not violated the provisions of this order, the remaining \$20,000.00 civil penalty held in abeyance will automatically be discharged without further proceedings.

The respondent shall send a certified check or money order for fourteen thousand dollars (\$14,000.00) made out to "Treasurer of the United States", to the United States Department of Agriculture, Office of the General Counsel, 14th and Independence Ave., S.W., ATTN: Tracey Manoff, Room 2319/2324, South Building, Washington, D.C. 20250-1400. The check or money order should be mailed by Federal Express, United Postal Service or any other service where delivery of mail is acknowledged.

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

Copies of this decision shall be served upon the parties.

Birdsboro Kosher Farm Corporation, Respondent

By: _____

Melvin Fishman, President

Date: 3/30/15

Stephen C. Nudel, Esquire
Attorney for Respondent

Date: 3/30/15

Tracey Manoff
Attorney for Complainant

Date: April 2, 2015

Issued in Washington, D.C.

This 6 day of APR, 2015

[REDACTED]

Administrative Law Judge

Jill S. Clifton