UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	
	)	
Midland Farms, Inc.,	)	Docket No. 15-0156
	)	
	)	
Respondent.	)	
	)	CONSENT DECISION

This proceeding was instituted under the Fluid Milk Promotion Act of 1990, (7 U.S.C. §§ 6401 – 6417) ("Fluid Milk Act"), and the order promulgated thereunder, (7 C.F.R. §§ 1160.101 - 1160.609) ("Fluid Milk Order"), and under the Dairy Production Stabilization Act of 1983, (7 U.S.C. §§ 4501 – 4514)("Dairy Stabilization Act"), and the order promulgated thereunder, (7 C.F.R. §§ 1150.101 - 1150.27) ("Dairy Promotion Order"), by a Complaint filed by the Associate Administrator of the Agricultural Marketing Service ("Complainant") alleging that respondent violated the Acts and orders. 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).

For the purposes of this Consent Decision only, respondent specifically admits that the Secretary of the United States Department of Agriculture ("USDA") has jurisdiction in this matter, admits the remaining allegations in the complaint, admits to the findings of fact set forth below, and waives:

(a) Any further procedure;

(b) Any requirement that the final decision in the proceeding contain findings and conclusions with respect to all material issues of fact, law, or discretion, as well as the reasons or bases thereof;

(c) All rights to seek judicial review and otherwise challenge or contest the validity of this decision.

(d) Any action against the USDA under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 *et seq.*) for fees and other expenses incurred by the respondent in connection with this proceeding.

The complainant agrees to the entry of this decision.

Findings of Fact

1. Respondent Midland Farms, Inc. is a corporation whose principal place of business is 375 Broadway, Menands, New York 12204.

2. At all times material herein, the respondent was a processor of fluid milk as defined in the Fluid Milk Act, 7 U.S.C. § 6402(4), and the Fluid Milk Order, 7 C.F.R. § 1160.108.

3. At all times material herein, the respondent was a person as defined in the Dairy Stabilization Act, 7 U.S.C. § 4502(g), and the Dairy Promotion Order, 7 C.F.R. § 1150.105.

4. Pursuant to the complaint filed, Respondent owed a total of $950,836.40 under the Fluid Milk Act and order. Of that total, $647,052.16 was in assessments, and $303,784.24 was in late fees charged for unpaid assessments. In June 2015, Respondent made a payment of $16,920.00, leaving a remaining balance of assessments owed of $630,132.16.

5. Pursuant to the complaint filed, Respondent owed a total of $519,490.49 under the Dairy Promotion Act and order. Of that total, $345,117.52 was in assessments,

and $174,372.97 was in late fees charged for unpaid assessments. In June 2015, Respondent made a payment of $1,537.04, leaving a remaining balance of assessments owed of $343,580.48.

6. Pursuant to the complaint filed, Respondent owed a combined total of $1,470,326.89. After both June payments, Respondent owed a remaining balance of $1,451,869.85. Of that total, $973,712.64 was in assessments and $478,157.21 was in late fees charged for unpaid assessments.

7. On February 18, 2016, Midland submitted payment of $156,071.77 to the New York State Department of Agriculture and Markets for that portion owed under the Dairy Promotion Order. Therefore, Midland owes a remaining $189,045.75 under the Dairy Promotion Act and order.

8. From May through December 2015, Midland accumulated $92,967.13 in unpaid assessments to the Fluid Milk Board, and $31,615.90 in unpaid assessments to the National Dairy Board.

9. The total amount of assessments owed by Midland under the Fluid Milk Act and order and the Dairy Promotion Act and order $942,223.90.

Conclusions

The respondent has admitted the jurisdictional facts and has agreed to the provisions set forth in the following Order in disposition of this proceeding; therefore, this Consent Decision will be issued.

ORDER

Respondent has been given the opportunity for a hearing and waives such hearing and further procedure.

Under the Fluid Milk Act and order and the Dairy Stabilization Act and order, respondent owes assessments of $942,223.90.

1. No later than March 8, 2016, respondent shall send the full payment of assessments of $942,223.90
2. Upon payment of the full amount of $942,223.90, all late fees described in the complaint and all late fees accumulated from May through December 2015 will be waived.
3. Payment shall be made by certified check or money order and payable to the Fluid Milk Board, which will then disperse a portion of the payments to the Dairy Promotion Board. The certified check or money order shall include the docket number of this proceeding (15-0156).
4. If respondent fails to make payment or fails to comply in any way with the Consent Decision or Order, any unpaid portion of the assessment, any remaining late fees, and outstanding late fees will be immediately due and payable. Midland Farms understands that failure to make prompt and complete payment will be considered a breach of terms of this settlement agreement and will cause USDA to take enforcement action to collect the entire amount remaining to be paid and court costs which may be provided for by law, and to enjoin it from failing to comply with the Act and Order, and the Rules and Regulations promulgated thereunder, as well as further relief as is deemed proper.

The parties agree that this Order will settle all administrative claims known to the Complainant for violations of the Fluid Milk Act that occurred between July 2012 and April 2015 and of the Dairy Stabilization Act that occurred between June 2010 and April 2015. The parties stipulate that upon full and complete payment of all amounts due, USDA will not seek

late fees that have continued to accrue on the assessments described in the complaint or late fees that have accrued on unpaid assessments from May through December 2015.

This Order shall become effective when served on the respondent.

Demetrios Haseotes
On behalf of
MIDLAND FARMS INC.

[redacted]
MICHAEL E. FERDMAN
Attorney for Respondent

[redacted]
LAUREN E. BECKER
Attorney for Complainant

Issued this 3rd day of MARCH, 2016, in Washington, D.C.

[redacted]
JANICE K. BULLARD
ADMINISTRATIVE LAW JUDGE