

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P. & S. Docket No. D-01-0013
)
Wayne W. Coblentz, d/b/a)
Coblentz & Sons Livestock,)
) **Ruling Denying Respondent's**
) **Motion for Stay Pending Review**
Respondent)

PROCEDURAL HISTORY

I issued a Decision and Order concluding Wayne W. Coblentz, d/b/a Coblentz & Sons Livestock [hereinafter Respondent], violated the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. §§ 181-229) [hereinafter the Packers and Stockyards Act].¹ Respondent requested a stay of the Order in *In re Wayne W. Coblentz*, 61 Agric. Dec. 330 (2002), pending the outcome of proceedings for judicial review, and on July 29, 2002, I granted Respondent's request.²

The United States Court of Appeals for the Sixth Circuit affirmed *In re Wayne W. Coblentz*, 61 Agric. Dec. 330 (2002),³ and the Deputy Administrator, Packers and

¹*In re Wayne W. Coblentz*, 61 Agric. Dec. 330 (2002).

²*In re Wayne W. Coblentz*, 61 Agric. Dec. 786 (2002) (Stay Order).

³*Coblentz v. United States Dep't of Agric.*, 89 Fed. Appx. 484, 2003 WL 23156647
(continued...)

Stockyards Programs, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture [hereinafter Complainant], filed a motion to lift the July 29, 2002, Stay Order on the ground that proceedings for judicial review had been concluded.⁴ On March 14, 2005, Respondent filed a response opposing Complainant's Motion to Lift Stay.⁵ On March 22, 2005, I granted Complainant's Motion to Lift Stay.⁶

On May 27, 2005, Respondent filed a motion for stay pending judicial review of the March 22, 2005, Order Lifting Stay Order.⁷ On June 9, 2005, Complainant filed an opposition to Respondent's Motion for Stay Pending Review, and on June 21, 2005, the Hearing Clerk transmitted the record to the Judicial Officer for a ruling on Respondent's Motion for Stay Pending Review.

CONCLUSION BY THE JUDICIAL OFFICER

The Administrative Procedure Act provides if justice so requires, an agency may postpone the effective date of an order, as follows:

³(...continued)
(6th Cir. 2003).

⁴Motion to Lift Stay.

⁵Respondent's Reply to Complainant's 'Motion to Lift Stay'.

⁶*In re Wayne W. Coblenz*, 64 Agric. Dec. ____ (Mar. 22, 2005) (Order Lifting Stay Order).

⁷Motion for Stay Pending Review.

§ 705. Relief pending review

When an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review. On such conditions as may be required and to the extent necessary to prevent irreparable injury, the reviewing court, including the court to which a case may be taken on appeal from or on application for certiorari or other writ to a reviewing court, may issue all necessary and appropriate process to postpone the effective date of an agency action or to preserve status or rights pending conclusion of the review proceedings.

5 U.S.C. § 705.

Respondent has exhausted avenues for judicial review of this administrative proceeding. I have fully considered and addressed Respondent's request that I credit him with having served 150 days of the 5-year suspension as a registrant under the Packers and Stockyards Act imposed in *In re Wayne W. Coblantz*, 61 Agric. Dec. 330, 345 (2002).⁸ Under these circumstances, I do not find that justice requires that I disturb the March 22, 2005, Order Lifting Stay Order.

For the foregoing reasons, the following Ruling should be issued.

⁸See *In re Wayne W. Coblantz*, 64 Agric. Dec. ____, slip op. at 2-3 (Mar. 22, 2005) (Order Lifting Stay Order).

RULING

Respondent's Motion for Stay Pending Review, filed May 27, 2005, is denied.

Done at Washington, DC

June 21, 2005

William G. Jenson
Judicial Officer