

USDA Default Decision Settles Complaint Against Bert Smith, III

Washington, DC (April 30, 2001) - On April 6, 2001, the United States Department of Agriculture issued a default decision ordering Bert Smith, III (Smith, III) of Church Hill, Tennessee to stop violating the bond and livestock payment provisions of the Packers and Stockyards Act. Smith, III is registered under the Act as a dealer buying and selling livestock in commerce for his own account and as a market agency buying livestock in commerce on a commission basis.

Under the terms of the default decision, Smith, III, his agents, and employees, in connection with activities subject to the Act, were ordered to cease and desist from: (1) engaging in business in any capacity for which bonding is required under the Act without filing and maintaining an adequate bond or its equivalent; (2) purchasing livestock while his financial condition does not meet the requirements of the Act; (3) issuing checks in payment for livestock without maintaining sufficient funds on deposit; (4) failing to pay, when due, the full purchase price of livestock; (5) failing to pay the full purchase price of livestock; (6) misleading sellers, their agents, and buyers of livestock; and (7) accepting, causing or authorizing the preparation of purchase invoices or other documents representing that Smith, III is purchasing cattle for another, when in fact, Smith, III is purchasing cattle for himself.

The order requires Smith, III to keep and maintain accounts, records, and memoranda that fully and correctly disclose all transactions in his operation. Smith, III is also suspended as a registrant under the Act for a period of ten years and thereafter until solvency is demonstrated. However, a supplemental order may be issued terminating the suspension after the expiration of two years, upon demonstration by Smith, III that his current liabilities no longer exceed his current assets, and that all unpaid sellers identified in the complaint have been paid in full. The order may be modified after two years, to permit the salaried employment of Smith, III by another registrant or packer if Smith, III is able to demonstrate circumstances warranting modification.

The default decision was issued after Smith, III, failed to respond to an administrative complaint filed September 22, 2000. Failure to file an answer constituted an admission of the allegations stated in the complaint. The cease and desist order and suspension will become effective 35 days after service of the order, unless Smith, III appeals the decision to the Judicial Officer of USDA.

The Act is a fair trade practice and payment protection law that promotes fair and competitive marketing environments for the livestock, meat, and poultry industries.

#

GIPSA Release #21-01
Leah Akbar (202) 720-4998
Leah_L.Akbar@usda.gov