

MAR 08 2010

USDA  
GIPSA

Lo Battaglini

UNITED STATES DEPARTMENT OF AGRICULTURE

MAR 02 - 5 PM 2:58

BEFORE THE SECRETARY OF AGRICULTURE

RECEIVED

In re:	)	P & S Docket No. D-09-0135
	)	
Townsend Farms of Arkansas, Inc.	)	
	)	
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.; hereinafter "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 (hereinafter "Complainant"), alleging that Respondent willfully violated the Act. This Consent Decision is entered pursuant to the Consent Decision provision of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statues (7 C.F.R. § 1.138; hereinafter "Rules of Practice").

Townsend Farms of Arkansas, Inc., 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 Consent Decision.

Complainant agrees to the entry of this Consent Decision.

Findings of Fact

1. Townsend Farms of Arkansas, Inc. (hereinafter "Respondent"), is a corporation organized and existing under the laws of the State of Arkansas, and is a wholly owned subsidiary

of Townsends, Inc., whose business mailing address is 1600 White Drive, Batesville, Arkansas 72501.

2. At all times material to the Complaint, Respondent was:
  - (a) Engaged in the business of obtaining live poultry under a poultry growing arrangement for the purpose of slaughter; and
  - (b) A live poultry dealer within the meaning of and subject to the provisions of the Act.

#### Conclusion

Respondent having admitted the jurisdictional facts, and the parties having agreed to the entry of this Consent Decision, the Consent Decision will be entered.

#### Order

Respondent Townsend Farms of Arkansas, Inc., its agents and employees, directly or through any corporate or other device, in connection with its operations subject to the Act, shall cease and desist from failing to pay, when due, for live poultry obtained under any type of poultry growing arrangement before the close of the fifteenth day following the week in which the poultry is slaughtered.

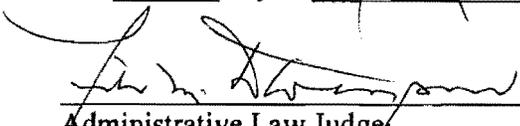
Pursuant to section 411(b) of the Act (7 U.S.C. § 228b-2(b)), Respondent is assessed a civil penalty in the amount of Forty-Eight Thousand Dollars (\$48,000.00), to be paid in accordance with the provisions of the Understanding with Respect to Civil Penalty entered into by the parties.

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.

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

Issued in Washington, D.C.

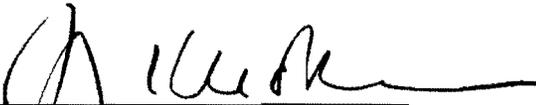
this 5<sup>th</sup> day of March, 2010

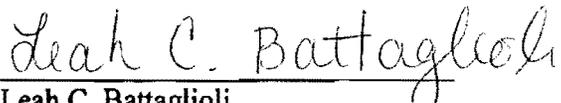
  
\_\_\_\_\_  
Administrative Law Judge

Townsend Farms of Arkansas, Inc.  
Respondent,

By: 

Title: Sr. Vice President/CFO

  
\_\_\_\_\_  
Gary Jay Kushner  
Attorney for Respondent

  
Leah C. Battaglioli  
Attorney for Complainant