

Alan Christian _____
Larry Mitchell _____

cc: Offutt

USDA
OALJ/OHC

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

2012 SEP 13 AM 10:15

In re:) P & S Docket No. D-12-0407
)
Ronald Wayne Kitchen)
)
)
Respondent) Consent Decision

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This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.) (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 promulgated thereunder (9 C.F.R. § 201.1 et seq.) (Regulations). 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 Statutes (7 C.F.R. § 1.138) (Rules of Practice).

The Respondent admits the jurisdictional allegations in paragraph I of the Complaint and specifically admits that the Secretary has jurisdiction in this matter, admits 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.

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Findings of Fact

1. Respondent Ronald Wayne Kitchen is an individual whose mailing address is in the State of Missouri. The address will not be stated in this Decision to protect the privacy of Respondent, but will be provided to the Hearing Clerk's Office, United States Department of Agriculture, for the purposes of service of effecting service of process.

2. At all times material herein, Respondent was:

(a) Engaged in the business of a dealer, buying and selling livestock in commerce for his own account or the account of others, and as market agency, buying livestock in commerce on a commission basis; and

(b) Registered with the Secretary of Agriculture as a 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 Ronald Wayne Kitchen, his agents and employees, directly or through any corporate or other device, in connection with his operations subject to the Act and regulations, shall cease and desist from preparing and issuing, or causing to be prepared and issued, invoices showing false, inaccurate, or misleading purchase price, weight, and source entries for the livestock.

Respondent Ronald Wayne Kitchen shall keep and maintain accounts, records, and memoranda that fully and correctly disclosed all transactions involved in his

business subject to the Act, including, but not limited to, scale tickets reflecting true and correct weights; records that fully and correctly disclose the source, weight, and purchase price of livestock purchased and sold; all purchase and sale invoices from auction markets where he conducted business; invoices and weigh tickets for purchases other than those at auction markets; invoices which show the true and correct purchase price of livestock purchased on a commission basis; and other documents of sale which completely and accurately reflect the true nature of such transactions as required by section 401 of the Act (7 U.S.C. § 221) and as more fully specified in section 203.4 of the Statements of General Policy Under the Packers and Stockyards Act (9 C.F.R. § 203.4).

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondent is assessed a civil penalty in the amount of \$7,975.00. The civil penalty shall be paid by a certified check or money order made payable to the Treasurer of the United States and shall be sent to Ciarra A. Toomey, Attorney, Office of the General Counsel, U.S. Department of Agriculture, Room 2019 South Building, 14th and Independence Avenue, S.W., Washington, D.C. 20250. The certified check or money order should include the docket number of this proceeding, P&S Docket No. 12-0407. The civil penalty will become due and payable 30 days after the effective date of this Order.

Additionally, Respondent is ordered to make restitution to Laura's Lean Beef in the amount of \$2,025.00, which shall be paid by a certified check or money order made payable to Laura's Lean Beef and shall be sent to Ciarra A. Toomey, Attorney, Office of the General Counsel, U.S. Department of Agriculture, Room 2019 South Building, 14th and Independence Avenue, S.W., Washington, D.C. 20250. Restitution will become due and payable 60 days after the effective date of this Order.

The provisions of this Order shall become effective on the sixth day after service of this order on the Respondent.

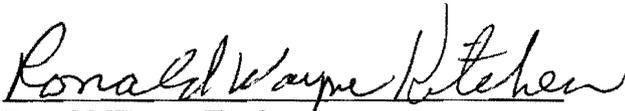
Copies of this decision and order shall be served upon the parties.

Done at Washington, D.C.

this 13th day of Sept, 2012



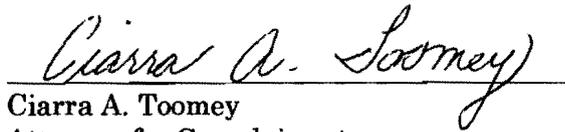
Administrative Law Judge
for Janice K. Bullard
US Administrative Law Judge



Ronald Wayne Kitchen
Respondent

9/4/12

Date



Ciarra A. Toomey
Attorney for Complainant

9/12/12

Date