

Christian  
Butler

USDA  
OAL/VOHC  
2009 JUN 23 PM 3:33  
RECEIVED

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	P. & S. Docket No. D-08-0104
	)	
Donald W. Hallmark and	)	
Donald R. Hallmark d/b/a	)	
Hallmark Meat Packing Company	)	
	)	
Respondents	)	Decision Without Hearing By Reason Of Consent

This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.) (hereinafter referred to as the "Act"), by a Complaint and Notice of Hearing filed on April 14, 2008 by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that Respondents willfully violated the Act and the regulations issued thereunder (9 C.F.R. § 201.1 et seq.) (hereinafter referred to as the "regulations"). On May 29, 2008, Respondents filed an Answer wherein, *inter alia*, they denied that they were partners who owned and operated Hallmark Meat Packing Company at all times material to the allegations in the Complaint and affirmatively alleged that they had sold all of the assets and most of the liabilities of Hallmark Meat Packing Company in August 2003 to Cattleman's Choice, Inc.

In order to settle this proceeding and for such purposes only, Respondents admit that the Secretary has jurisdiction over them. Respondents deny that, at any time material to the alleged

cc: Brett

violations in the Complaint, they were owners, operators or managers of the business known as Hallmark Meat Packing Company, neither admit nor deny the remaining allegations in the Complaint, waive oral hearing and further procedure in this proceeding, and consent and agree, for the purpose of settling this proceeding and for such purpose only, to the entry of this decision. Complainant agrees to the entry of this decision, for the purpose of settling this proceeding.

The parties understand and agree that this consent decision does not in any way affect, nor shall any of its provisions have either any precedential value in or any preclusive effect on, any other claim or litigation that is currently pending or that may be brought against Respondents in other matters or forums.

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).

#### Findings of Fact

1. Respondent Hallmark Meat Packing Company was at all times material herein organized and existing under the laws of the State of California. Its business mailing address was at all times material herein P.O. Box 1927, Chino, CA 91708.
2. Respondent Hallmark Meat Packing Company was at all times material herein a packer within the meaning of and subject to the provisions of the Act.

#### Order

Respondents, their agents and employees, successors and assigns, directly or through any corporate or other device, in connection with all activities subject to the Act, shall cease and desist from failing to pay, when due, for livestock purchases, improperly reporting hot carcass weights to livestock sellers, failing to maintain a printed record of accurate hot carcass weights, and paying livestock sellers on the basis of improperly recorded and reported hot carcass weights,

in violation of 202(a) of the Act (7 U.S.C. § 192 (a)) and section 409 of the Act ( 7 U.S.C. § 228 (b)), and sections 201.49, 201.71 and 201.99 of the regulations (9 C.F.R. §§ 201.49, 201.71 and 201.99).

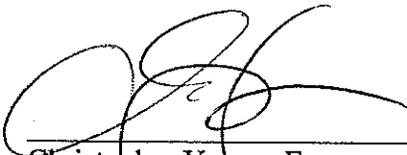
Respondents shall keep accounts, records and memoranda that fully and correctly disclose all transactions involved in their business.

Pursuant to Section 203 of the Act (7 U.S.C. § 193), Respondents are assessed a civil penalty in the amount of \$20,000.00, payable to the United States Treasury immediately upon service of this Order on Respondents. The payment shall be sent to the following address:

USDA, GIPSA, P.O. Box 790335, St. Louis, MO 63179-0335.

The provisions of this Order shall become effective immediately upon service of this Order on the Respondents.

Copies of this decision shall be served upon the parties.

  
\_\_\_\_\_  
Christopher Young, Esq.  
Attorney For Complainant

6-15-09  
Date

  
\_\_\_\_\_  
Ernest H. Van Hooser, Esq.  
Attorney For Respondents

6/17/09  
Date

Issued this 23<sup>rd</sup> day of June, 2009.

  
\_\_\_\_\_  
PETER M. DAVENPORT  
Administrative Law Judge