

Alan C. \_\_\_\_\_

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UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

2012 MAY - 8 AM 10:17

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In re: )  
David Mosner, Inc. )  
Respondent )

P&S Docket No. D-12-0240  
Consent Decision

This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.), (the 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 Respondent David Mosner, Inc. (Respondent) willfully violated the Act. 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).

Respondent 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 decision.

Complainant agrees to the entry of this decision.

Findings of Fact

(a) Respondent is a corporation organized and existing under the laws of the State of New York. Respondent's business mailing address is E-8 Hunts Point Cooperative Market, Bronx, New York 10474.

(b) Respondent, at all times material herein, was:

1. engaged in the business of buying livestock in commerce for the

CC: [Signature]

purposes of slaughter and manufacturing or preparing meats or meat products for sale or shipment in commerce; and

2. operating as as a packer within the meaning of and subject to the provisions of the Act.

#### Conclusions

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

#### Order

1. Respondent, its agents and employees, directly or through any corporate or other device, in connection with activities subject to the Act, shall cease and desist from:

(a) Failing to pay, when due, the full purchase price of such livestock (7 U.S.C. §§192(a) and 228b); and

(b) removing the kidneys and kidney fat from veal calve carcasses before weighment without informing the sellers of said removal in violation of section 201.99(a) of the Regulations which requires that a description of the carcass trim be disclosed to the sellers before the calves are weighed (9 C.F.R. § 201.99(a)).

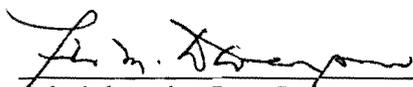
2. In accordance with section 203(b) of the Act (7 U.S.C. 193(b)), Respondent is hereby assessed a civil penalty of \$10,000.00 and is ordered to make restitution to the livestock sellers listed in the complaint in accordance with the “Understanding Regarding Consent Decision” executed by the parties.

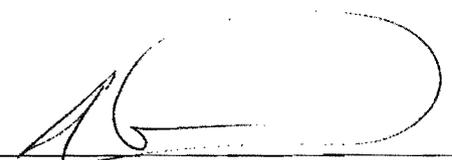
The provisions of this order shall become effective on the sixth day after service of this order on the Respondent.

Copies of this decision shall be served upon the parties.

Issued in Washington D.C.

this 4<sup>th</sup> day of May, 2012

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

  
\_\_\_\_\_  
David Mosner, Inc.  
Michael Mosner, President

  
\_\_\_\_\_  
Brian Sylvester, Esq.  
Counsel for Complainant