

*Alan. C.*

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JAN 22 2012

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	P & S Docket No. D-12-0089
	)	
Whispering Oaks Farms, LLC, and	)	
Mike D. Esther,	)	
	)	
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.) (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 Respondents 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).

The Respondents admit the jurisdictional allegations in paragraph I of the Complaint and specifically admit that the Secretary has jurisdiction in this matter, neither admit nor deny the remaining allegations, waive oral hearing and further procedure, and consent and agree, 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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*CC: Brett*

### Findings of Fact

1. Whispering Oaks Farms, LLC (Respondent Whispering Oaks), is a limited liability company organized and existing under the laws of the State of Missouri. Its current mailing address is Box 145, Lebanon, MO 65536.
2. At all times material to the Complaint, Respondent Whispering Oaks was:
  - (a) Engaged in the business of a market agency buying livestock in commerce on a commission basis or a dealer buying and selling livestock in commerce; and
  - (b) Not registered with the Secretary of Agriculture as a market agency to buy livestock in commerce on a commission basis or a dealer buying and selling livestock in commerce.
3. Mike D. Esther (Respondent Esther) is an individual whose current mailing address is Box 145, Lebanon, MO 65536.
4. At all times material to the Complaint, Respondent Esther was:
  - (a) Not currently registered with the Secretary of Agriculture. Respondent Esther was previously registered with the Secretary of Agriculture as a dealer buying and selling livestock in commerce and as a market agency buying livestock in commerce on a commission basis. Respondent Esther's prior registration was made inactive at his request on or about May 3, 2010;
  - (b) The sole member of Respondent Whispering Oaks;
  - (c) The 100 percent owner of Respondent Whispering Oaks;
  - (d) Registered agent of Respondent Whispering Oaks;

(e) Responsible for the direction, management, and control of Respondent Whispering Oaks.

5. Respondent Whispering Oaks is the alter ego of Respondent Esther.

#### Conclusion

Respondents 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 Whispering Oaks Farms, LLC, and Respondent Mike D. Esther, their agents and employees, directly or through any corporate or other device, in connection with their operations subject to the Act, shall cease and desist from engaging in business in any capacity for which bonding is required under the Act and the Regulations, without filing and maintaining an adequate bond or its equivalent, as required by the Act and the Regulations.

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondents are assessed, jointly and severally, a civil penalty in the amount of One Thousand Dollars (\$1,000.00) to be paid in accordance with the provisions of the Understanding with Respect to Civil Penalty entered into by the parties.

The provisions of this Order shall become effective upon issuance.

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

Done at Washington, D.C.

this 25<sup>th</sup> day of January, 2012

JANICE K. BULLARD  
Administrative Law Judge

JANICE K BULLARD

Whispering Oaks Farms, LLC  
Respondent,

By: Mike D. Esther

Title: owner

Mike D. Esther  
Mike D. Esther  
Respondent

Leah C. Battaglioli  
Leah C. Battaglioli  
Attorney for Complainant

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