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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P&S Docket No. D- 12-0386
)
Pilgrim's Pride Corporation)
)
Respondent) Complaint

There is reason to believe that Respondent Pilgrim's Pride Corporation has willfully violated the provisions of the Packers & Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*)(Act) and, therefore, this Complaint is issued alleging the following:

I

(a) Respondent Pilgrim's Pride Corporation (Respondent) is a Texas Corporation with its principal office located at 1770 Promontory Cir., Greeley, CO 80634-9039, and a business mailing address of P.O. Box 93, Pittsburg, TX 75686.

- (b) Respondent, at all times material to this Complaint was:
- (1) engaged in the business of obtaining live poultry by purchase or under poultry growing arrangements for the purpose of slaughter,
 - (2) shipping processed poultry products in commerce, and
 - (3) operating as a live poultry dealer subject to the provisions of the Act.

II

(a) Respondent maintains live poultry slaughtering facilities throughout the United States. The facilities relevant to this complaint are in Lufkin, Texas, Nacogdoches, Texas, and Natchitoches, Louisiana. In 2010, Respondent had contracted for growers of poultry to grow and deliver flocks of poultry to the Nacogdoches, Lufkin, and Natchitoches plants. The contracts between the growers and Respondent for the Lufkin and Nacogdoches plants, provided that the basis of settlement would be based on the average feed conversion for all farms delivered at the specific plant and on the weight of the poultry delivered to that plant.

(b) The rate of base pay and size of delivered bird weights were different at each plant; notably, the Nacogdoches plant had a higher rate of base pay than the Lufkin plant.

(c) An audit conducted by the Packers and Stockyards Program of Respondent's settlements at the Lufkin and Nacogdoches complexes in 2010 showed that Respondent, from the period of March 28, 2010, through May 30, 2010, breached its contract with growers in that birds contracted for settlement at the Lufkin and Nacogdoches plants were redirected to plants other than the contracted plants. Birds contracted for the Lufkin plant were redirected to the Nacogdoches and Natchitoches plants, and birds contracted for delivery to the Nacogdoches plant were settled at the Lufkin and

Natchitoches plants. Respondent then settled these redirected flocks of birds as if they had been, in fact, delivered to the original contractually designated plant. The settlement comparisons resulted in the underpayment to 18 growers in the approximate amount of \$13,567.74.

III

By virtue of the facts alleged in paragraph II, Respondent has violated section 410 of the Act (7 U.S.C. § 228(b)-1) and therefore section 202(a) of the Act (7 U.S.C. § 192), by failing to timely pay the full amount due to poultry growers.

WHEREFORE, it is hereby ordered that this Complaint shall be served on Respondent for the purpose of determining whether Respondent has willfully violated the Act. Respondent shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §1.130 *et seq.*)(Rules of Practice). Failure to file an answer shall constitute an admission of all the material allegations of this Complaint.

The Packers and Stockyards Program, GIPSA requests:

1. That unless Respondent fails to file an answer within the time allowed therefore, or files an answer admitting all the material allegations of this Complaint, this proceeding be set for oral hearing in accordance with the

Rules of Practice governing proceedings under the Act.

2. That an order be issued requiring Respondent to cease and desist from the violations found to exist and assessing such civil penalties as are authorized by section 411 of the Act (7 U.S.C. §228b-2) and warranted under the circumstances.

Done at Washington, D.C.

this 23 day of April, 2012



Alan R. Christian
Deputy Administrator,
Packers & Stockyards Program

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