

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

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In re: ) P. & S. Docket No. D-06-0015  
)  
American Family Farms, Inc., and )  
Tim Dietzler, )  
)  
Respondents ) Decision Without Hearing by Reason of  
) Consent as to Tim Dietzler

RECEIVED

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.) by a complaint and notice of hearing filed on March 8, 2006, by the Administrator, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture. The complaint and notice of hearing alleged that Respondent American Family Farms, Inc. (hereinafter, the "Corporate Respondent"), under the direction, management and control of Respondent Tim Dietzler (hereinafter, often referred to as the "Individual Respondent"), purchased livestock for slaughter and failed to pay the full amount of the purchase price for livestock within the time period required by the Act, with \$765,445.72 remaining unpaid as of the date of the complaint and notice of hearing. The complaint and notice of hearing also alleged that as of August 15, 2003, the Corporate Respondent was insolvent, as its current liabilities exceeded its current assets in the amount of \$1,141,203.36. Further, the complaint and notice of hearing alleged that the Individual Respondent was the alter-ego of the Corporate Respondent.

The complaint and notice of hearing was served on both Respondents. The Individual Respondent filed an answer, denying liability. The Corporate Respondent failed to file an answer and was in default. A Decision and Order as to Only American Family Farms, Inc., was issued on October 31, 2006.

This Decision Without Hearing by Reason of Consent as to Tim Dietzler is entered pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes applicable to this proceeding (7 C.F.R. § 1.138).

The Individual Respondent admits the jurisdictional allegations in paragraph I of the complaint and notice of hearing 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

1. Tim Dietzler, the Individual Respondent, is an individual whose mailing address is National Fish Hatchery, HC37 Box 8, Willow Beach, Arizona 86445.
2. The Individual Respondent was, at all times material herein:
  - (a) Chairman of the Board and Chief Financial Officer of the Corporate Respondent;
  - (b) Owner, along with his wife, Becky Dietzler, of a total of 66% of a corporation that owned 51% of the stock of the Corporate Respondent; and
  - (c) Responsible for the direction, management and control of the business activities of the Corporate Respondent, including the acts and practices alleged in the complaint and notice of hearing filed herein.

3. The Individual Respondent admits that, at all times during the acts and practices alleged in the complaint and notice of hearing filed herein, he was acting subject to the jurisdiction of the Act, although the Individual Respondent neither admits nor denies that he was a packer within the meaning of the Act.

#### Conclusions

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

#### Order

The Individual Respondent, Tim Dietzler, his agents and employees, directly or through any corporate or other device, in connection with his activities subject to the Act, shall cease and desist from:

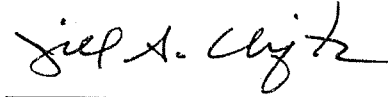
1. Failing to pay the full amount of the purchase price for livestock within the time period required by the Act; and
2. Purchasing livestock in commerce while insolvent, i.e., while current liabilities exceed current assets.

The provisions of this order shall become final and effective upon issuance.

Copies of this decision shall be served upon the parties.

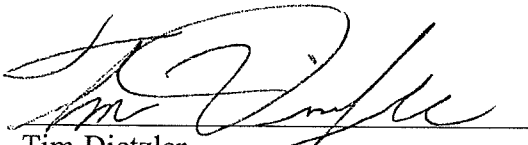
Issued this 17 day of

January, 2007.



Administrative Law Judge

Jill S. Clifton



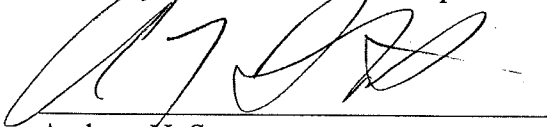
Tim Dietzler

The Individual Respondent



Jim O'Brien, Esq.

Attorney for the Individual Respondent



Andrew Y. Stanton

Attorney for Complainant