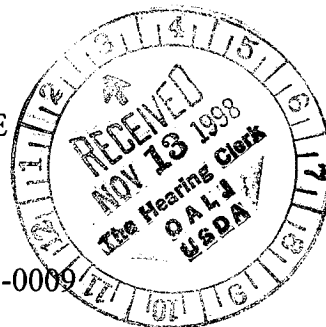


UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) P. & S. Docket No. D-98-0009
)
John Lustig Meats, Inc.,)
and John S. Lustig, Jr.,)
) Decision Without Hearing by Reason
Respondents) of Default

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 by the Deputy Administrator, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that the respondents have wilfully violated the Act and the regulations issued thereunder (9 C.F.R. § 201.1 et seq.).

Copies of the Complaint and Notice of Hearing and the Rules of Practice (7 C.F.R. § 1.130 et seq.) governing proceedings under the Act were served upon respondents by certified mail. Respondents were informed in a letter of service that an answer should be filed pursuant to the Rules of Practice and that failure to answer would constitute an admission of all the material allegations contained in the Complaint and Notice of Hearing.

Respondents have failed to file an answer within the time prescribed in the Rules of Practice, and the material facts alleged in the Complaint and Notice of Hearing, which are admitted by respondents' failure to file an answer, are adopted and set forth herein as findings of fact.

This Decision Without Hearing by Reason of Default, therefore, is issued pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

(1) John Lustig Meats, Inc., hereinafter referred to as the corporate respondent, is a corporation whose business mailing address is 670 East Cherry Road, Quakertown, Pennsylvania 18951.

(2) The corporate respondent is, and at all times material herein was:

(a) Engaged in the business of buying livestock for purpose of slaughter; and

(b) A packer within the meaning of and subject to the Act.

(3) John S. Lustig, Jr., hereinafter referred to as the individual respondent, is an individual whose business mailing address is 188 Keystone Road, Quakertown, Pennsylvania 18951.

(4) The individual respondent is, and at all times material herein was:

(a) The president and owner of 80% of the class A stock and 90% of the class B stock of the corporate respondent and directs, manages and controls all business activities of the corporate respondent, including the acts and practices alleged herein; and

(b) A packer within the meaning of the Act and subject to the provisions of the Act.

Conclusions

By reason of the facts found in Finding of Fact 2 herein, respondents have wilfully violated sections 202(a) and 409 of the Act (7 U.S.C. § 192(a), 228b).

Order

Respondent John Lustig Meats, Inc., its officers, directors, agents, employees, successors and assigns, and respondent John S. Lustig, Jr., individually or through any corporate or other device, in connection with their operations subject to the Act, shall cease and desist from:

1. Issuing checks in purported payment for purchases of livestock which are returned unpaid by the bank upon which they are drawn because the corporate respondent does not have and maintain sufficient funds on deposit and available in the account upon which such checks are drawn to pay such checks when presented;
2. Failing to pay, when due, for livestock purchases; and
3. Failing to pay for livestock purchases.

Pursuant to section 203(b) of the Act (7 U.S.C. § 193(b)), respondents are jointly and severally assessed a civil penalty in the amount of Thirteen Thousand Dollars (\$13,000.00).

This Decision Without Hearing by Reason of Default shall become final and effective without further proceedings 35 days after the date of service upon the respondents, unless it is appealed to the Judicial Officer by a party to the proceeding within 30 days pursuant to section 1.145 of the Rules of Practice (7 C.F.R. § 1.145).

Copies of this Decision Without Hearing by Reason of Default shall be served upon the parties.

Issued this 13 day of Nov,
1998.


Administrative Law Judge