

Davis

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

RECEIVED

1999 APR 22 PM 3:03

In re: ) P. & S. Docket No. D-98-0018  
Hawk Mountain Poultry, Inc., )  
Brothers Poultry, Inc., and )  
Charles Saletan, )  
)  
Respondents ) Decision

THE HEARING CLERK  
OALJ-USDA

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, GIPSA, United States Department of Agriculture, alleging that the respondents wilfully 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).

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 decision.

The complainant agrees to the entry of this decision.

Findings of Fact

1. Respondent Hawk Mountain Poultry, Inc., hereinafter respondent Hawk Mountain, is a New Jersey corporation whose mailing address is 454 East Saddle River Road, Upper Saddle River, NJ 07458.

2. Respondent Hawk Mountain at all times material herein was:

(a) Engaged in the business of obtaining live poultry under a poultry growing arrangement for the purpose of slaughter and the sale and shipment of poultry products in commerce; and

(b) A live poultry dealer within the meaning of and subject to the provisions of the Act.

3. Respondent Brothers Poultry, Inc., hereinafter respondent Brothers, is a New York corporation whose mailing address is 146 Wolcott Street, Brooklyn, NY 11201.

4. Respondent Brothers at all times material herein was:

(a) Engaged in the business of obtaining live poultry under a poultry growing arrangement for the purpose of selling it for slaughter by another; and

(b) A live poultry dealer within the meaning of and subject to the provisions of the Act.

5. Respondent Charles Saletan, hereinafter respondent Charles Saletan or the individual respondent, is an individual whose address is 23 West 73<sup>rd</sup> Street, New York, NY 10023.

6. Respondent Charles Saletan is, and at all times material herein was:

(a) President of the respondents Hawk Mountain and Brothers;

(b) Owner of 100 percent of the stock of respondents Hawk Mountain and Brothers;

(c) Responsible for the direction, management and control of the respondents Hawk Mountain and Brothers;

(d) The alter ego of respondents Hawk Mountain and Brothers; and

(e) A live poultry dealer within the meaning of and subject to the Act.

#### Conclusions

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

Order

Respondents Hawk Mountain Poultry, Inc. and Brothers Poultry, Inc., their officers, directors, agents and employees, successors and assigns, and respondent Charles Saletan, his agents and employees, directly or through any corporate or other device, in connection with their operations as a live poultry dealer, shall, with respect to transactions occurring on and after the date of this order, cease and desist from:

1. Failing to pay the full amount due to poultry growers on account of live poultry obtained under poultry growing arrangements; and

2. Failing to pay, when due, for live poultry obtained under poultry growing arrangements by not delivering to poultry growers the full amount due for the live poultry before the close of the fifteenth day following the week in which the poultry was slaughtered.

Respondent Brothers Poultry, Inc., its officers, directors, agents and employees, successors and assigns, and respondent Charles Saletan, his agents and employees, directly or through any corporate or other device, shall, with respect to transactions occurring on and after the date of this order, cease and desist from:

1. Entering into any agreement with a poultry grower to extend the time of payment beyond the period prescribed under section 410 of the Act the payment of live poultry obtained pursuant to poultry growing arrangement.

In accordance with section 411 of the Act (7 U.S.C. § 228b-2), respondents Hawk Mountain Poultry, Inc. and Charles Saletan are assessed, jointly and severally, a civil penalty of Nineteen Thousand Four Hundred Dollars (\$19,400.00).

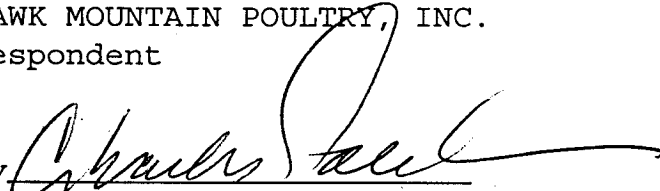
In accordance with section 411 of the Act (7 U.S.C. § 228b-2), respondents Brothers Poultry, Inc. and Charles Saletan are assessed, jointly and severally, a civil penalty of Thirty-Three Thousand Four Hundred Dollars (\$33,400.00).

The assessed civil penalties shall be paid by the immediate payment of Seven Thousand Eight Hundred Dollars (\$7,800.00), and by three additional payments of Fifteen Thousand Dollars (\$15,000.00) each by October 15, 1999, October 15, 2000, and October 15, 2001. Provided, that if any installment is not paid by the date required, the entire balance outstanding shall be due and payable immediately. Respondents agree that a consent judgment may be entered in the United States District Court for the full amount due and owing and such interest thereon and court costs as may be provided for by law.

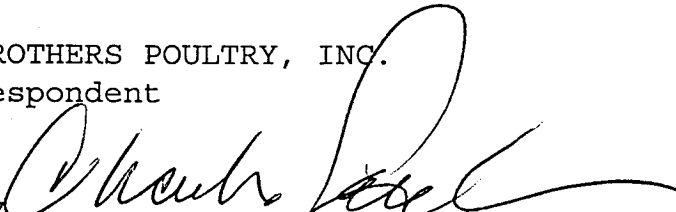
The provisions of this order shall become effective on the first day after service of this order on the respondents.

Copies of this decision shall be served upon the parties.


HAWK MOUNTAIN POULTRY, INC.  
Respondent

By   
CHARLES SALETAN, President

BROTHERS POULTRY, INC.  
Respondent

By   
CHARLES SALETAN, President

  
CHARLES SALETAN  
Respondent

  
ERIC PAUL  
Attorney for Complainant

Issued this 22 day of April 1999

  
Administrative Law Judge