

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) P & S Docket No. 13- 0111  
)  
)  
J.H. Routh Packing Company, )  
)  
)  
Respondent ) Complaint and Notice of Hearing

There is reason to believe that the Respondent named herein has willfully violated the Packers & Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.) (Act) and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.) (Regulations), and, therefore, this Complaint and Notice of Hearing is issued alleging the following:

I.

(a) J.H. Routh Packing Company, referred to herein as Respondent, is a corporation organized under the laws of the State of Ohio, with a mailing address of PO Box 2253, Sandusky, Ohio 44871.

(b) The Respondent is, and at all times material herein was:

(1) Engaged in the business of buying livestock in commerce for the purpose of slaughter, and of manufacturing or preparing meats or meat products for sale or shipment in commerce; and

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

## II.

On May 10, 2001, the Packers and Stockyards Program of the Grain Inspection, Packers and Stockyards Administration sent a letter to Respondent informing it that an investigation of its livestock procurement process and quality control records disclosed that aspects of its operations were not in compliance with the Act and the Regulations. The letter informed Respondent that the investigation disclosed, among other things, that (1) the identity of each seller's livestock and the carcasses therefrom was not maintained; (2) adjustments made for partial carcasses, missing weights, missing backfat and loineye measurements, or other adjustments were not indicated on the kill sheet; (3) missing carcass weights were changed to a value of 165 pounds; (4) missing UltraFOM measurements were changed to the average UltraFOM measurement of the previous two carcasses; and (5) producers were not notified of any of these procedures. The letter referenced section 201.99 of the Regulations (9 C.F.R. § 201.99) and told Respondent to take immediate steps to ensure that its operations were in compliance with the Act and the Regulations.

## III.

(a) Respondent's method of maintaining the identity of each producer's hogs is to pen each producer's hogs separately and slaughter the hogs in order of pen number. A booking sheet is used to sequence the lots in the production line.

(b) In the production line, there are three rail-out points where carcasses can be pulled from the production line to receive further work or inspection before being railed back into the production line or condemned. At each rail-out point, there is a counter and the number on the counter is marked on the back of the railed-out carcass. When railed-out carcasses are railed back into the production line and ultimately reach the hot scale, the UltraFOM operator writes

the number from the back of the railed-out carcass onto a piece of notebook paper along with the corresponding sequence number from the hot scale. At the end of the harvest day, the UltraFOM operator's piece of paper is passed to the office along with the harvest day's hot scale data, and the office manager places the carcass numbers from the sheet of paper back into their original sequence order on the computer.

(c) When a carcass is railed-out of the production line, it disrupts the order of slaughter by pen number. A railed-out carcass from one producer can become commingled with the carcasses of another producer when it is railed back into the production line. Unless railed-out carcasses are properly put back into their original sequence order on the computer, carcasses may be assigned to the wrong producers resulting in inaccurate payments to the affected producers.

(d) Respondent, on January 6, 9, 16, 19, and 28, 2009, and again on February 4, 5, 11, and 12, 2009, purchased livestock on a grade and weight basis and failed to accurately maintain the identity of each seller's livestock and the carcasses derived from the livestock in that railed-out carcasses were not properly put back into their original sequence order causing Respondent to assign some carcasses to the wrong producers.

(e) Under Respondent's carcass merit program, provided that the producer has a minimum of 50 head, the producer is paid on a carcass grade and weight basis. Respondent informed producers that it would account and pay for carcasses for which no actual hot weight was recorded, called "Missed Data Readings," by using the average of the collected readings in the same lot.

(f) Respondent, on January 6, 9, 16, 19, and 28, 2009, and again on February 4, 5, 11, and 12, 2009, purchased livestock on a grade and weight basis and provided inaccurate accountings to sellers in that on some seller lots, Respondent, in any combination of the following, (1) substituted arbitrary weights on the kill sheet instead of using the average of the collected readings in the same lot for carcasses with Missed Data Readings; (2) substituted arbitrary weights on the kill sheet when it could not use the average of the collected readings in the same lot for carcasses with Missed Data Readings because all of the hot scale readings were Missed Data Readings (only applicable to February 4, 2009); (3) substituted arbitrary weights on the kill sheet instead of using the actual hot weight data readings; or (4) substituted arbitrary weights on the kill sheets when multiple carcasses, or "Double Carcasses," crossed the hot scale simultaneously.

(g) Respondent, on January 6, 9, 16, 19, and 28, 2009, and again on February 4, 5, 11, and 12, 2009, purchased hogs on a grade and weight basis and failed to make settlement and final payment on the actual hot weights in that on some seller lots, Respondent, in any combination of the following, (1) substituted arbitrary weights on the kill sheet instead of using the average of the collected readings in the same lot for carcasses with Missed Data Readings; (2) substituted arbitrary weights on the kill sheet when it could not use the average of the collected readings in the same lot for carcasses with Missed Data Readings because all of the hot scale readings were Missed Data Readings (only applicable to February 4, 2009); (3) substituted arbitrary weights on the kill sheet instead of using the actual hot weight data readings; or (4) substituted arbitrary weights on the kill sheets when multiple carcasses, or "Double Carcasses," crossed the hot scale simultaneously.

IV.

By reason of the facts alleged in paragraph III herein, Respondent has willfully violated section 202(a) of the Act (7 U.S.C. § 192(a)) and section 201.99(b), (d) of the Regulations (9 C.F.R. § 201.99(b), (d)).

WHEREFORE, it is hereby ordered that for the purpose of determining whether Respondent has, in fact, willfully violated the Act and the Regulations, this Complaint and Notice of Hearing shall be served upon Respondent. Respondent shall have twenty (20) days after receipt of this Complaint and Notice of Hearing in which to file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, DC 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). Allegations not answered shall be deemed admitted for the purpose of this proceeding. Failure to file an answer shall constitute an admission of all the material allegations of this Complaint and Notice of Hearing unless the parties have agreed to a consent decision pursuant to section 1.138 of the Rules of Practice (7 C.F.R. § 1.138). Respondent is hereby notified that unless hearing is waived, either expressly or by failure to answer and request a hearing, a hearing will be held in accordance with the Rules of Practice, at a time and place to be designated later. At the hearing, Respondent will have the right to appear and show cause why an appropriate order should not be issued in accordance with the provisions of the Act requiring that Respondent cease and desist from violating the Act and the Regulations with respect to matters alleged herein and assessing such civil penalties as are

authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 6 day of December, 2012



---

Alan R. Christian  
Deputy Administrator  
Packers and Stockyards Program

Leah C. Battaglioli  
Attorney for Complainant  
Office of the General Counsel  
United States Department of Agriculture  
Room 2309, Stop 1413  
1400 Independence Avenue, SW.  
Washington, DC 20250-1413  
(202) 720-5191