

UNITED STATES DEPARTMENT OF AGRICULTURE

NOV 21 AM 9:24

BEFORE THE SECRETARY OF AGRICULTURE

RECEIVED

In re:)	Docket No. D-19-	0003
JBS USA Food Company,)		
Swift Beef Company)		
)		
)		
Respondent)	Consent Decision and Order	

This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. §§ 181 – 229c) (the Act), by a Complaint filed by the Acting Deputy Administrator, Fair Trade Practices Program of the Agricultural Marketing Service (AMS), United States Department of Agriculture, alleging that during the period of December 14, 2017 through March 31, 2018, Respondent violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 et seq.) by failing to provide proper oversight of carcass sequencing procedures at its Grand Island, Nebraska beef processing facility, leading to incorrect over-payments and under-payments to sellers of livestock. Complainant and Respondent have agreed to entry of this Decision, without hearing or further procedure, pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.138) (Rules of Practice).

Respondent admits the jurisdictional allegations in the complaint and specifically admits that the Secretary has jurisdiction in this matter; neither admits nor denies the remaining allegations; waives oral hearing and further procedure; waives all rights to seek judicial review and otherwise challenge or contest the validity of this decision, including waiving challenges to the Administrative Law Judge’s authority to enter this Decision and Order under the Administrative Procedure Act and the Constitution of the United States, and waives any action against the United States Department of Agriculture under the Equal Access to Justice Act of

1980 (5 U.S.C. § 504 *et seq.*) for fees and other expenses incurred by Respondent in connection with this proceeding or any action against any USDA employee in their individual capacity. The parties consent and agree, for the purpose of settling this proceeding and for such purpose only, to the entry of this Decision.

FINDINGS OF FACT

(1) Respondent is a corporation organized and existing under the laws of the State of Delaware, located in Greeley, Colorado. Its business mailing address is 1770 Promontory Circle, Greeley, CO 80634. Respondent, at all times material herein, conducted operations at, among other places, 555 S. Stuhr Rd., Grand Island, Nebraska (Swift Beef Company – Grand Island).

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

- a. Engaged in the business of buying livestock in commerce for the purposes of slaughter;
- b. Engaged in the business of manufacturing or preparing meat and meat food products for sale or shipment in commerce; and
- c. A packer within the meaning of and subject to the provisions of the Act.

CONCLUSIONS OF LAW

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

ORDER

Respondent, its agents and employees, directly or through any corporate or other device, in connection with its operations subject to the Act, shall cease and desist from:

Failing to properly maintain the identity of each seller's livestock and the carcasses therefrom;

Failing, after determination of the amount of the purchase price, to transmit or deliver to

the seller or his duly authorized agent a true written account of such purchase showing the number, weight, and price of the carcasses of each grade (identifying the grade) and of the ungraded carcasses, an explanation of any condemnations, and any other information affecting final accounting; and

Failing to maintain sufficient records to substantiate the settlement of each transaction.

Respondent shall remit to livestock sellers the amounts detailed in the Understanding Regarding Consent Decision entered between the parties.

In accordance with section 203(b) of the Act (7 U.S.C. § 193(b)), Respondent is assessed a civil penalty of \$50,000 to be paid by certified check or money order made payable to the Treasurer of the United States and sent to USDA - GIPSA, PO Box 790335, St. Louis, Missouri 63179-0335. The certified check or money order shall include the docket number of this proceeding. The civil penalty will become due and payable 30 days after the effective date of this Order.

Copies of this decision shall be served upon the parties and the provisions of this Order shall become final and effective upon on the sixth (6th) day after service of this Consent

Decision and Order on Respondent.

[Redacted]

JBS USA Food Company
Swift Beef Company
Respondent

[Redacted]

Christopher Young
Attorney for Complainant

[Redacted]

Nicholas White
General Counsel, CO#3590

Done at Washington, D.C.
this 21st day of November, 2018

[Redacted]

Chief

Administrative Law Judge

Channing D. Strother