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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:

Linton Livestock Auction Sales, Inc.,

Respondent

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P&S Docket No. 15-0065

Consent Decision and Order

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.), by a complaint filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that the respondent willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 et seq.). This decision is entered pursuant to the consent decision provision of the rules of practice applicable to this proceeding (7 C.F.R. § 1.138).

The respondent admits the jurisdictional allegations in paragraph I of 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, and consents and agrees, 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

(a) Respondent Linton Livestock Auction Sales, Inc. is a corporation organized under the laws of the State of North Dakota, with its principal place of business located at Hwy 83 S, Linton, ND 58552. The Respondent's mailing address is P.O. Box 476, Linton, North Dakota

58552. The corporation's registered agent for service of process is: Denise Morman, 8375 Hwy 3, Wishek, ND 58495-9587.

(b) Respondent Linton Livestock Auction Sales, Inc., is, and at all times material herein was:

- (1) Engaged in the business of a market agency selling livestock on a commission basis in commerce; and
- (2) Registered with the Secretary of Agriculture as a market agency to sell livestock on a commission basis in commerce.

Conclusions

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

Order

Respondent Linton Livestock Auction Sales, Inc., their agents and employees, directly or indirectly through any corporate or other device, shall cease and desist from:

1. Failing to properly maintain its Custodial Account for Shippers' Proceeds in strict conformity with the Act and section 201.42 of the regulations (9 C.F.R. § 201.42);
2. Failing to deposit in the custodial account for shippers' proceeds, within the time prescribed by section 201.42 of the regulations (9 C.F.R. § 201.42), an amount equal to the proceeds receivable for sales of consigned livestock;
3. Using funds received from the sale of consigned livestock for any purpose other than those specifically permitted by section 201.42(d) of the regulations (9 C.F.R. § 201.42(d)).

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), the respondent is further assessed a civil penalty in the amount of eleven thousand dollars (\$11,000.00) of which

six thousand dollars (\$6,000.00) will be held in abeyance in accordance with the terms of the "Understanding Regarding Consent Decision" entered into by the parties.

This order shall have the same force and effect as if entered after full hearing. The provisions of this order shall become effective on the sixth day after service of this consent decision and order on the respondent.

Copies of this decision shall be served upon the parties.

Linton Livestock Auction Sales, Inc.
Respondent,

By: Jim Bosch 

Title: Office Manager - owner


Lauren C. Axley
Attorney for Complainant

Done at Washington, D.C.

this 31st day of MARCH, 2015


Administrative Law Judge

JANICE L. BULLARD