

USDA Assesses Wharton Livestock Auction, Inc., and Herman W. (Billy) Schwertner a Civil Penalty of \$22,500

WASHINGTON, March 23, 2007 - On February 28, 2007, the Grain Inspection, Packers and Stockyards Administration (GIPSA) filed a decision without hearing by reason of consent against Wharton Livestock Auction, Inc. (Wharton) and Herman W. (Billy) Schwertner (Schwertner), Wharton, Texas. The decision assesses Wharton and Schwertner a \$22,500 civil penalty and orders Wharton and Schwertner to cease and desist from:

Using funds received as proceeds due from the sale of livestock sold on a commission basis for purposes of his own or for any purpose other than the payment of lawful marketing charges and the remittance of net proceeds to the consignors of livestock; and failing to otherwise maintain his Custodial Account for Shippers Proceeds.

The decision results from an investigation that culminated in a complaint filed January 26, 2007, in which GIPSA alleged that Wharton and Schwertner in October and November of 2002:

- misused its Custodial Account for Shippers Proceeds by issuing checks drawn on its custodial account to make advances/loans to its auctioneer and not for payment to a consignor, shipper, or anyone entitled to payment; and
- had shortages of funds available to pay shippers their net proceeds.

The Packers and Stockyards Act is a fair trade practice and payment protection law that promotes fair and competitive marketing environments for the livestock, meat, and poultry industries.

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