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2010 SEP 29 PM 2: 25

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:)	P&S Docket No D-09-0090
)	
Otis Lewis Fortner II d/b/a)	
Lewie Fortner Livestock,)	
)	
)	
Respondent)	Decision by Reason of Consent

This proceeding was instituted under the Packers and Stockyards Act, as amended and supplemented (7 U.S.C. § 181 *et seq.*) (Act), by a Complaint filed April 7, 2009, by the Deputy Administrator, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that Respondent willfully violated the Act. This decision is entered pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes applicable to this proceeding (7 C.F.R. § 1.138).

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.

Complainant agrees to the entry of this decision.

cc: Offutt

Findings of Fact

1. Otis Lewis Fortner II d/b/a Lewie Fortner Livestock, hereinafter referred to as "Respondent," is an individual whose mailing address is P.O. Box 339, Kite, Georgia 31049.
2. At all times material to this Decision, Respondent was
 - a. Engaged in the business of buying and selling livestock in commerce as a dealer for his own account; and
 - b. Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for his own account.

Conclusions

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

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

1. Failing to pay the full purchase price for livestock.
2. Failing to pay, when due, the full purchase price for livestock.

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondent is assessed a civil penalty in the amount of two thousand dollars (\$2,000) and Respondent shall make payments according to the provisions outlined in the Understanding Regarding Civil Penalty Terms entered into by the parties.

The provisions of this order shall become final and effective on issuance.

Copies of this decision shall be served upon the parties.

Ortis Lewis Fortner
Ortis Lewis Fortner

9-24-10
Date

Jesse C. Stone
Jesse C. Stone
Attorney for Respondent

9-24-10
Date

Ciarra A. Toomey
Ciarra A. Toomey
Attorney for Complainant

9-27-10
Date

Done at Washington, D.C.

this 28th day of September, 2010

Richard A. Thompson
Administrative Law Judge

2010 SEP 27 PM 2: 48

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BEFORE THE SECRETARY OF AGRICULTURE

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P & S Docket No. D-09-0090

In re: Otis Lewis Fortner II,
d/b/a Lewie Fortner Livestock,

Respondent

ORDER

Counsel for the Complainant having advised that the parties have entered into a Consent Decision, the oral hearing set to commence at **9:00 A.M. on September 29, 2010 in Macon, Georgia is CANCELLED.**

Copies of this Order will be served upon the parties by the Hearing Clerk.

September 27, 2010


PETER M. DAVENPORT
Chief Administrative Law Judge

Copies to: Ciarra A. Toomey, Esquire
Jesse C. Stone, Esquire
Neal R. Gross & Co., Inc.

Hearing Clerk's Office
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