

OCT 19 2009

J. Gandy

THE UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

13 OCT 26

In re:

P&S Docket № D-08-0081

Gary D. Fulton,
also d/b/a Duncan Farms

Respondent

Decision Without Hearing
by Reason of Consent

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.) (Act), by a Complaint filed on March 19, 2008 by the Deputy Administrator, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that Respondent willfully violated the Act and regulations promulgated thereunder (9 C.F.R. § 201.1 et seq.)(regulations). 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.

Findings of Fact

1. Gary D. Fulton, also doing business as "Duncan Farms", (Respondent) is an individual whose business and mailing address is R.R. # 1, Box 40, Lewiston, IL 61542.

2. Respondent is, and at all times material to this decision was:

- (a) A dealer buying and selling livestock for his own account or for the account of others;
- (b) A market agency, providing clearing services;
- (c) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce, and as a market agency to buy livestock on a commission basis and to provide clearing services.

Conclusions

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

Order

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 failing to pay, when due, the full purchase price of livestock.

Respondent shall keep accounts, records and memoranda which fully and correctly disclose the true facts of all transactions involved in his business subject to the Act including inventory records that fully and correctly show the disposition of all livestock bought and sold and invoices for the purchase and sale of livestock.

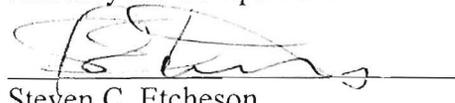
In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)),
Respondent is assessed a civil penalty in the amount of two thousand dollars
(\$2,000).

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

Done at Washington, D.C.
this 16th day of October, 2009


Peter M. Davenport
Administrative Law Judge


Jonathan Gordy
Attorney for Complainant


Steven C. Etcheson
Attorney for Respondent


Gary Fulton
Respondent