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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	P & S Docket No. D-09-0160
)	
Allen County Livestock Auction,)	
LLC, John Adams and Dale)	
Peterson,)	
)	
)	
Respondents)	Consent Decision

This is a disciplinary proceeding under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*; hereinafter "Act") instituted by a Complaint filed by the Deputy Administrator of Packers and Stockyards Program on July 29, 2009. The Complaint alleged that Respondents violated section 312(a) of the Act (7 U.S.C. § 213(a)) and section 201.42 of the Regulations issued under the Act (9 C.F.R. § 201.42) by failing to maintain and use properly the custodial account for shippers' proceeds ("custodial account") at a livestock auction market that they managed and operated in Gas, Kansas. Complainant and Respondents have now 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).

Respondents admit the jurisdictional allegations in paragraph I of the Complaint and specifically admit that the Secretary has jurisdiction in this matter; neither admit nor deny the remaining allegations; waive oral hearing and further procedure; and 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. Allen County Livestock Auction, LLC, (“Allen County Livestock”), is a Kansas limited liability company with a mailing address of P.O. Box 130, Gas, Kansas 66742. The limited liability company’s registered agent in Kansas is: John Adams, P.O. Box 130, Gas, Kansas 66742. Respondent Allen County Livestock was formerly registered with the Secretary of State of Kansas as Adams & Peterson, LLC.

2. Respondent Allen County Livestock, at all times material herein, managed and operated a livestock auction market located at 315 South Main, Gas, Kansas, and was:

- a. Engaged in the business of conducting and operating a posted stockyard subject to the provisions of the Act;
- b. Engaged in the business of a market agency selling consigned cattle, horses, and mules in commerce on a commission basis; and
- c. Registered with the Secretary of Agriculture as a market agency to sell livestock in commerce on a commission basis.

3. John Adams is an individual whose mailing address is in the State of Kansas.

4. Respondent John Adams, at all times material herein, was:

- a. A partner and 50 percent owner of Respondent Allen County Livestock;

- b. Responsible for the day-to-day direction, management and control of Respondent Allen County Livestock;
 - c. A market agency within the meaning of and subject to the provisions of the Act; and
 - d. The alter ego of Allen County Livestock Auction, LLC.
5. Dale Peterson is an individual whose mailing address is in the State of Kansas.
6. Respondent Dale Peterson, at all times material herein, was:
- a. A partner and 50 percent owner of Respondent Allen County Livestock;
 - b. Responsible for the day-to-day direction, management and control of Respondent Allen County Livestock;
 - c. A market agency within the meaning of and subject to the provisions of the Act; and
 - d. The alter ego of Allen County Livestock Auction, LLC.

Conclusions

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

Order

Respondents Allen County Livestock Auction, LLC, John Adams, and Dale Peterson, their agents and employees, directly, or through any corporate or other device, in connection with their activities subject to the Packers and Stockyards Act, shall cease and desist from:

1. 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), amounts equal to the proceeds received or due from the sale of consigned livestock; and
2. Failing to otherwise maintain the Custodial Account for Shippers' Proceeds in strict conformity with the provisions of section 201.42 of the Regulations (9 C.F.R. § 201.42).

Pursuant to section 312(b) (7 U.S.C. § 213(b)), Respondent John Adams is hereby assessed a civil penalty in the amount of five thousand five hundred dollars (\$5,500.00). Respondent John Adams shall pay half of the penalty, in the amount of two thousand seven hundred and fifty dollars (\$2,750.00), within ten days of the effective date of this Order and the remaining half of the penalty, in the amount of two thousand seven hundred and fifty dollars (\$2,750.00), within sixty days of the effective date of this Order.

Pursuant to section 312(b) (7 U.S.C. § 213(b)), Respondent Dale Peterson is hereby assessed a civil penalty in the amount of five thousand five hundred dollars (\$5,500.00). Respondent Dale Peterson shall pay half of the penalty, in the amount of two thousand seven hundred and fifty dollars (\$2,750.00), within ten days of the effective date of this

Order and the remaining half of the penalty, in the amount of two thousand seven hundred and fifty dollars (\$2,750.00), within sixty days of the effective date of this Order.

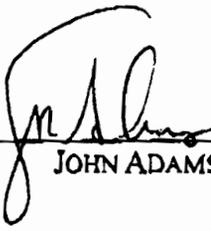
Payments shall be made by check or money order made payable to the "US Department of Agriculture." Respondents are directed to note the docket number of this case on the payment instruments. Payments shall be sent to: USDA GIPSA, PO Box 790335, St. Louis, Missouri 63179-0335.

Copies of this Decision and Order shall be served on the parties. The provisions of this Order shall become effective upon service.

Respondent
ALLEN COUNTY LIVESTOCK AUCTION, LLC,



JOHN ADAMS
Respondent

By: 

JOHN ADAMS

Respondent
ALLEN COUNTY LIVESTOCK AUCTION, LLC,



DALE PETERSON
Respondent

By: 

DALE PETERSON



CHARLES E. SPICKNALL
Attorney for Complainant

Issued in Washington D.C.

this _____ day of _____, 20__

ADMINISTRATIVE LAW JUDGE