

J. Adams

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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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| In re: |) | P & S Docket No. D-06-0004 |
| |) | |
| Poor Boy Livestock Auction, Inc., |) | |
| |) | |
| Respondent |) | Consent Decision |

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.), hereinafter the "Act," 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 Respondent has willfully violated the Act and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.), hereinafter referred to as the "Regulations." This decision is entered pursuant to the consent decision provision of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (the "Rules of Practice"). See 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. Poor Boy Livestock Auction, Inc., referred to herein as "Respondent," is a corporation organized and existing under the laws of the state of Oklahoma. Its mailing address is P.O. Box 546, Wister, Oklahoma 74966.

2. At all times material herein, Respondent was:
- (a) Engaged in the business of conducting and operating Poor Boy Livestock Auction, Inc., a posted stockyard under the Act located in Wister, Oklahoma;
 - (b) Engaged in the business of a market agency selling livestock 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 and to furnish stockyard services.

Conclusions

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

Order

Respondent Poor Boy Livestock Auction, Inc., its agents and employees, directly or through any corporate or other device, in connection with its 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).

In accordance with Section 312(b) of the Act (7 U.S.C. § 213(b)), Respondent is hereby assessed a civil penalty of three thousand dollars (\$3,000.00).

The provisions of this order shall become effective on the sixth (6th) day after service of this Order on Respondent.

Copies of this decision and order shall be served upon the parties.

Phil Hamlin
POOR BOY LIVESTOCK AUCTION CO.
Respondent

Charles E. Spicknall
CHARLES E. SPICKNALL
Attorney for Complainant

By:

Phil Hamlin

Sec/Treas
Corporate Position/Title

Issued in Washington D.C.
this 17th day of February, 2006

Peter M. Davenport
ADMINISTRATIVE LAW JUDGE
PETER M. DAVENPORT