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UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re:)	P. & S. Docket No. D-06-0022
)	
Aplington Sales Commission, Inc.,)	
)	
Respondent)	Decision Without Hearing by Reason of Consent

This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (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. 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 (Rules of Practice) 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. Aplington Sales Commission, Inc., referred to herein as "Respondent," is a corporation organized and existing under the laws of the State of Iowa. Its mailing address is

P.O. Box 267, Aplington, Iowa 50604.

2. At all times material herein, Respondent was:

- (a) Engaged in the business of conducting and operating Aplington Sales Commission, Inc., a posted stockyard under the Act located in Aplington, Iowa;
- (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 on a commission basis and as a dealer to buy or sell livestock in commerce for its own account or the accounts of others.

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, Aplington Sales Commission, Inc., its agents and employees, directly or through any corporate or other device, in connection with its activities subject to the Act, shall cease and desist from:

- 1. Failing to properly maintain a custodial account for shippers proceeds, as required by Section 201.42 of the regulations (9 C.F.R. §201.42), while operating as a market agency selling livestock on a commission basis; and
- 2. Misusing its custodial account for shippers proceeds by withdrawing funds for a purpose other than for payment of (1) the net proceeds to the consignor or shipper, or to any

person that the market agency knows is entitled to payment, (2) to pay lawful charges against the consignment of livestock which the market agency shall, in its capacity as agent, be required to pay, and (3) to obtain any sums due the market agency as compensation for its services.

Respondent, Aplington Sales Commission, Inc., is hereby suspended as a registrant under the Act for a period of 14 days beginning on April 23, 2007 and continuing through May 6, 2007.

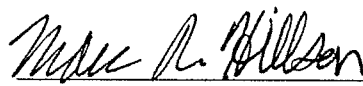
Respondent, Aplington Sales Commission, Inc., is hereby assessed a civil penalty of three thousand dollars (\$3,000).

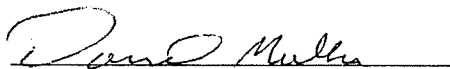
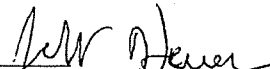
The provisions of this Order shall become final and effective upon issuance.

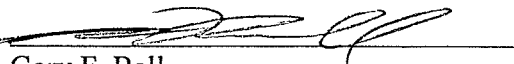
Copies of this Decision and Order shall be served upon the parties.

Issued in Washington, D.C.

this 26th day of March, 2007.


Administrative Law Judge

 
For Aplington Sales Commission*
Respondent


Gary F. Ball
Attorney for Complainant