

J. Butler  
Alan C.

USDA  
CALJ/OHC

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

JUN 25 PM 2:51

In re:

P & S Docket No. **08-0186**

RECEIVED

Joe Barkdull and Larry Spegal,  
d.b.a. Knightstown Livestock  
Auction

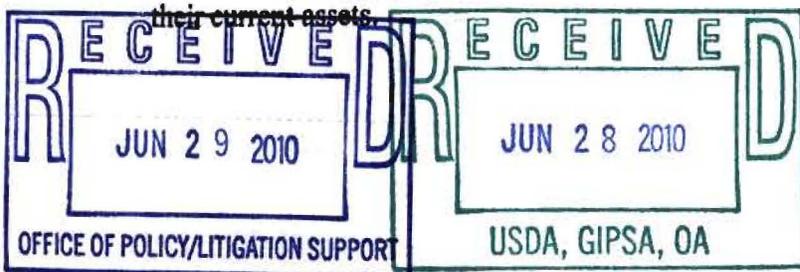
Respondent

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 an Amended Complaint filed on October 7, 2008, by the Deputy Administrator, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that Respondents 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).

The Complaint alleged that Respondents failed to maintain their custodial account in accordance with the requirements of the Act and the regulations, that Respondents failed to timely reimburse their custodial account, that Respondents misused custodial account funds and proceeds from the sale of livestock, and that Respondents had current liabilities that exceeded

their current assets.



CC: Brett

Respondents admit the jurisdictional allegations stated in the Findings of Fact 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 to the entry of this decision.

Complainant agrees to the entry of this decision.

#### Findings of Fact

1. Joe Barkdull and Larry Spegal (Respondents) are partners in a general partnership that does business under the name of Knightstown Livestock Auction. Respondents' business address is 6680 West Old National Rd., Knightstown, IN 46168.

2. Respondents, at all times material to this Decision Without Hearing by Reason of Consent, were:

(a) Engaged in the business of operating Knightstown Livestock Auction, a posted stockyard subject to the provisions of the Act;

(b) Engaged in the business of a market agency selling livestock in commerce on a commission basis;

(c) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock for its own account and as a market agency to buy and sell livestock on a commission basis.

3. On June 8, 2010, Respondent's registration expired for failure to file an annual report.

#### Conclusions

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

## Order

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

1. Failing to deposit in their Custodial Accounts for Shippers' Proceeds within the times prescribed in section 201.42 of the regulations (9 C.F.R. § 201.42) amounts equal to the outstanding proceeds receivable from the sale of consigned livestock;
2. Failing to otherwise maintain their Custodial Accounts for Shippers' Proceeds in strict conformity with section 201.42 of the regulations (9 C.F.R. § 201.42);
3. Using funds received from the sale of consigned livestock for purposes other than payment to consignors of the amount due from the sale of their livestock and the payment of lawful marketing charges, including, but not limited to:
  - (a) the payment of NSF check charges and other bank fees,
  - (b) transferring custodial account proceeds from custodial accounts into general operating accounts;
4. Operating while insolvent as required by the Act as supplemented (7 U.S.C. § 204) and as more fully described in section 203.10 of the regulations (9 C.F.R. § 203.10).

Respondents are prohibited from applying for registration to engage in business subject to the Act for a period of 100 days and thereafter. Provided, however, upon application to the Packers and Stockyards Program, a supplemental order may be issued permitting Respondent to be registered with the Secretary of Agriculture at any time after 30 days from the effective date of this Order upon demonstration by Respondents that they are in full compliance with the Act.

Pursuant to section 303 of the Act (7 U.S.C. § 203), Respondent is prohibited from engaging in business subject to the Act without being registered with the Secretary of Agriculture.

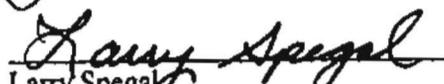
The provisions of this Order shall become final and effective immediately.

Copies of this decision shall be served upon the parties.

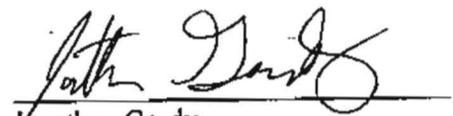
Done at Washington, D.C.

this 25<sup>th</sup> day of July, 2010

  
Joe Barkdull

  
Larry Spegal

  
Thomas Beeman  
Attorney for Respondents

  
Jonathan Gordy  
Attorney for Complainant

  
Administrative Law Judge

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

P & S Docket No. D-08-0186

In re: JOE BARKDULL  
and  
LARRY SPEGA,  
d/b/a KNIGHTSTOWN LIVESTOCK AUCTION,

Respondents

**ORDER**

A Consent Decision having been entered this date, the oral hearing scheduled to commence on June 30, 2010 in Indianapolis, Indiana is **CANCELLED**.

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

Done at Washington, D.C.  
June 25, 2010

  
**PETER M. DAVENPORT**  
Chief Administrative Law Judge

Copies to: Jonathan D. Gordy, Esquire  
Thomas M. Beeman, Esquire  
Neal R. Gross & Co., Inc.

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