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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-10-0452
)	
Lake Odessa Livestock Auction, Inc.)	
and La Verne Lettinga,)	
)	
Respondents)	
)	
)	and
)	
In re:)	P & S Docket No. D-10-0459
)	
Ravenna Auction, L.L.C.,)	
and La Verne Lettinga,)	
)	
Respondents)	Consent Decision

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 *et seq.*) (Act), by two Complaints¹ filed by the Deputy Administrator, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that the Respondents willfully violated the Act and regulations promulgated thereunder (9 C.F.R. § 201.1 *et seq.*)(regulations). The cases were consolidated for purposes of hearing. 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).

Respondents admit the jurisdictional allegations stated in the Findings of Fact

¹ P & S Docket No. D-10-0452 was filed on September 27, 2010 and the Amended Complaint was filed on October 4, 2010. P & S Docket No. D-10-0459 was filed on September 30, 2010.

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.

Complainant agrees to the entry of this decision.

Findings of Fact

1. Lake Odessa Livestock Auction, Inc., (Respondent Lake Odessa), is a corporation organized and existing under the laws of the State of Michigan, whose mailing address is 3675 W. Tupper Lake Road, Lake Odessa, Michigan 48849.
2. At all times material herein, Respondent Lake Odessa was:
 1. Engaged in the business of a market agency selling livestock in commerce on a commission basis;
 2. Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for its own account; and
 3. Registered with the Secretary of Agriculture as a market agency to buy and sell livestock in commerce on a commission basis.
3. Ravenna Auction, LLC, (Respondent Ravenna), is a limited liability company whose business address is 3265 Slocum Road, Ravenna, Michigan 49451 and whose mailing address is P.O. Box 608, Lake Odessa, Michigan 49451.
4. At all times material herein, Respondent Ravenna was:

1. Engaged in the business of a market agency selling livestock in commerce on a commission basis; and
 2. Registered with the Secretary of Agriculture as a market agency to sell livestock in commerce on a commission basis.
5. LaVerne Lettinga, (Respondent Lettinga), is an individual. Respondent Lettinga's mailing address is a home address, and will not be stated in this decision to protect his privacy, but will be provided to the Hearing Clerk's Office, United States Department of Agriculture.
6. At all times material herein, Respondent Lettinga was:
1. President of Respondent Lake Odessa;
 2. General manager of Respondent Lake Odessa;
 3. Director of Respondent Lake Odessa;
 4. Fifty percent owner of Respondent Lake Odessa²; and
 5. Responsible for the management, direction, and control of Respondent Lake Odessa
 6. President of Respondent Ravenna;
 7. One hundred percent owner of Respondent Ravenna; and
 8. Responsible for the management, direction, and control of Respondent Ravenna.

² As of the date of the complaint, Respondent Lettinga was the 100% owner of Lake Odessa Livestock Auction, Inc.

Conclusions

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

Order

Respondent Lake Odessa, Respondent Ravenna, and Respondent Lettinga, 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 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 any purpose 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,

- c. diverting custodial account funds and proceeds from the sales of livestock to non-custodial accounts or other businesses,
 - d. withdrawing from custodial account funds marketing charges not yet earned;
 - e. repaying loans, except as permitted by the Act or regulations.
4. Issuing custodial account checks without having sufficient funds on deposit and available in the Custodial Accounts for Shippers' Proceeds upon which the checks are drawn to pay the checks when presented for payment; Failing to remit, when due, the proceeds of livestock sales in strict conformity with section 201.43 of the regulations (9 C.F.R. § 201.43);
 5. Misrepresenting to consignors the actual weight and purchase prices of livestock resulting in a monetary loss to consignors; prepared and issued, or caused to be prepared and issued, in connection with the purchase or sale of livestock, accounts of purchase, invoices, billings, or any other documents showing false, inaccurate, or misleading weight and purchase price entries for such livestock; and
 6. Failing to keep accounts, records, and memoranda that fully and correctly disclosed all transactions involved in their business, as required by section 401 of the Act (7 U.S.C. § 221), including but not limited to, copies of all buyers' bills and records tracing all buyers' purchases to corresponding payments.

Respondent Lettinga is prohibited from registering under the Act for a suspension period of one year. Additionally, during the period of his suspension, Respondent Lettinga is prohibited from exercising any management, direction, and control of Respondent Lake Odessa and Respondent Ravenna and is prohibited from operating in any capacity subject to the Act.

Respondents Lake Odessa and Ravenna, separately, are suspended for 60 days. Said suspension shall be held in abeyance for one year provided:

1. Respondent Lettinga does not exercise any management, direction, and control of Respondents Lake Odessa or Ravenna, and does not otherwise operate subject to the Act during the 1 year period of his suspension period.
2. Respondents Lake Odessa and Ravenna maintain their custodial accounts in strict conformity with 9 C.F.R. § 201.42, and remit net proceeds to consignors in strict conformity with 9 C.F.R. § 201.43.
3. Respondents Lake Odessa and Ravenna do not misrepresent to consignors the actual weight and purchase prices of livestock sold for consignors.
4. Respondents Lake Odessa and Ravenna do not issue or cause to be issued, regarding the purchase and sale of livestock, accounts of purchase, invoices, billings, or any other documents showing false, inaccurate, or misleading weight and purchase price entries for such livestock.
5. Respondents Lake Odessa and Ravenna maintain complete and adequate records, including, but not limited to, copies of all buyers' bills and records tracing all buyers' purchases to corresponding payments.

At the end of the one-year period, the above suspension as to the Respondents shall be extinguished.

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondents are assessed jointly and severally a civil penalty in the total amount of thirty-five thousand dollars (\$35,000), ten thousand of which will be held in abeyance for one year pending Respondents' compliance with the provisions of the Understanding Regarding Civil Penalty Payment Terms entered into by the parties.

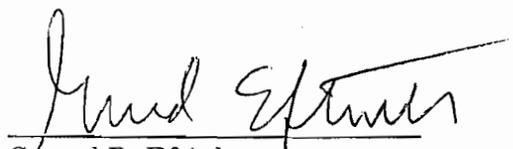
This Order shall have the same force and effect as if entered after full hearing. The provisions of this Order shall become final and effective upon issuance (7 C.F.R. § 1.138).

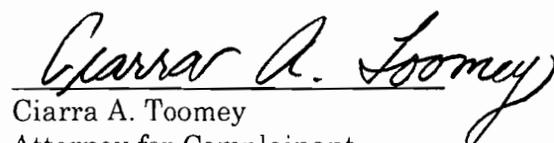
Copies of this decision shall be served upon the parties.

Done at Washington, D.C.

this 11th day of August, 2011


Administrative Law Judge


Gerard D. Eftink
Attorney for Respondent


Ciarra A. Toomey
Attorney for Complainant