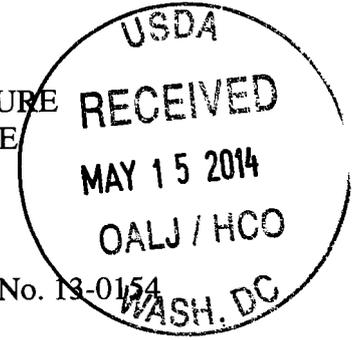


UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE



In re: )  
)  
Jack and Sandra Berry d/b/a ) P&S Docket No. 13-0154  
Clinton Livestock Auction )  
)  
Respondents ) Consent Decision and Order

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.), 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 the respondents willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 et seq.). This decision is entered pursuant to the consent decision provision of the rules of practice applicable to this proceeding (7 C.F.R. § 1.138).

The 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.

The complainant agrees to the entry of this decision.

Findings of Fact

- (a) Respondents Jack and Sandra Berry are individuals doing business as Clinton Livestock Auction with a mailing address of P. O. Box 1780, Clinton, Oklahoma 73601.
- (b) Respondents are, and at all times material herein were:
  - (1) Engaged in the business of conducting and operating Clinton Livestock Auction, a stockyard posted under and subject to the provisions of the Act;

(2) Engaged in the business of a dealer buying and selling livestock in commerce and as a market agency buying and selling livestock on a commission basis in commerce; and

(3) Formerly registered with the Secretary of Agriculture as a dealer buying and selling livestock in commerce and as a market agency to buy and sell livestock on a commission basis in commerce. Respondents' registration was terminated on June 8, 2011, when they failed to file their 2010 annual report.

### Conclusions

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

### Order

Respondents Jack and Sandra Berry, d/b/a Clinton Livestock Auction, their agents and employees, directly or indirectly through any corporate or other device, shall cease and desist from:

1. Failing to properly maintain its Custodial Account for Shippers' Proceeds in strict conformity with the Act and section 201.42 of the regulations (9 C.F.R. § 201.42);
2. 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), an amount equal to the proceeds receivable for sales of consigned livestock.

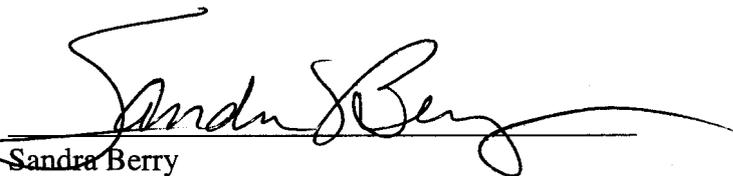
Respondents Jack and Sandra Berry, d/b/a Clinton Livestock Auction shall keep and maintain accounts, records, and memoranda, which fully and correctly disclose the true nature of all transactions involved in their business subject to the Act as required by section 401 of the Act (7 U.S.C. § 221).

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), the respondents are further assessed, jointly and severally, a civil penalty in the amount of ten thousand dollars (\$10,000.00) of which six thousand and five hundred dollars (\$6,500.00) will be held in abeyance in accordance with the terms of the "Understanding Regarding Consent Decision" 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 effective on the sixth day after service of this consent decision and order on the respondent.

Copies of this decision shall be served upon the parties.

  
\_\_\_\_\_  
Jack Berry  
Respondent

  
\_\_\_\_\_  
Sandra Berry  
Respondent

  
\_\_\_\_\_  
Ernie Van Hooser  
Attorney for Respondents

Lauren Axley  
Lauren Axley  
Attorney for Complainant

Done at Washington, D.C.

this 15<sup>th</sup> day of May, 2014

[Signature]  
Administrative Law Judge