

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:)
)
 Charles Delbert Cole, II, dba) P&S Docket No. 13-0304
 Weston Livestock Marketing,)
)
 Respondent)
)
) Consent Decision

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 respondent 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 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.

The complainant agrees to the entry of this decision.

Findings of Fact

(a) Respondent Charles Delbert Cole, II, doing business as Weston Livestock Marketing is an individual with a mailing address of P.O. Drawer 1048, Weston, WV 26452.

(b) Respondent Charles Delbert Cole, II, is, and at all times material herein was:



- (1) Engaged in the business of a market agency selling livestock on a commission basis in commerce; and
- (2) Registered with the Secretary of Agriculture as a market agency to sell livestock on a commission basis in commerce.

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

Respondent Charles Delbert Cole, II, doing business as Weston Livestock Marketing, his 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;
3. Using funds received from the sale of consigned livestock for any purpose other than those specifically permitted by section 201.42(d) of the regulations (9 C.F.R. § 201.42(d));

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), the respondent is further assessed a civil penalty in the amount of twelve thousand dollars (\$12,000.00).

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.

Charles D Cole II

Charles Delbert Cole, II dba Weston Livestock Marketing
Respondent


W. T. Weber, Jr., Esquire
Attorney for Respondent

Lauren Axley
Lauren Axley
Attorney for Complainant

Done at Washington, D.C.

this 22 day of October, 2013

Janice K. Bullard

Administrative Law Judge

Janice K. Bullard