



UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	P & S Docket No.
)	
)	
Lynchburg Livestock Market, Inc.,)	13-0351
)	
C. Matthew Fariss, and)	13-0352
)	
Duane D. Gilliam,)	13-0353
)	
)	
Respondents)	Consent Decision

This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*) (Act), and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201 *et seq.*), hereinafter referred to as the “regulations” 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. Complainant and respondents have now agreed to entry of this Decision, without hearing or further procedure, pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (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.

Findings of Fact

(a) Respondent Lynchburg Livestock Market, Inc. is a corporation organized under the laws of the State of Virginia, with its principal place of business located at 243 Livestock Road, Rustburg, Virginia.

(b) Respondent Lynchburg Livestock Market's mailing address is P.O. Box 4122, Lynchburg, Virginia 24502.

(c) The corporation's registered agent for service of process is Leighton S. Houck, P.O. Box 6320, Lynchburg, Virginia 24505.

(d) Respondent Lynchburg Livestock Market, Inc. under the direction, management, and control of C. Matthew Fariss and Duane D. Gilliam, is, and at all times material herein was:

(i) Engaged in the business of conducting and operating Lynchburg Livestock Market, Inc., a stockyard posted under and subject to the provisions of the Act;

- (ii) Engaged in the business of a market agency selling and buying livestock in commerce on a commission basis;
- (iii) Engaged in the business of a dealer buying or selling livestock in commerce; and
- (iv) Registered with the Secretary of Agriculture as a market agency to buy and sell livestock on a commission basis in commerce and as a dealer to buy or sell livestock in commerce.

(e) Respondent C. Matthew Fariss is an individual and his mailing address is P.O. Box 4122, Lynchburg, Virginia 24502. C. Matthew Fariss is, and at all times material herein was, fifty percent owner and President of respondent Lynchburg Livestock Market, Inc., and, in conjunction with Duane D. Gilliam, formulated, directed, and controlled the policies, practices and activities of respondent Lynchburg Livestock Market, Inc.

(f) Respondent Duane D. Gilliam is an individual and his mailing address is P.O. Box 4122, Lynchburg, Virginia 24502. Duane D. Gilliam is, and at all times material herein was, fifty percent owner and Vice President of respondent Lynchburg Livestock Market, Inc., and, in conjunction with C. Matthew Fariss, formulated, directed, and controlled the policies, practices and activities of respondent Lynchburg Livestock Market, Inc.

Conclusions

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

Order

Respondent Lynchburg Livestock Market Inc., its officers, directors, agents and employees, successor and assigns; respondents C. Matthew Fariss and Duane D. Gilliam, their agents and employees, directly or through any corporate or other device, in connection with Respondents' activities subject to the Packers and Stockyards Act, shall cease and desist from:

- (i) Recording the weight of livestock at other than their true and correct weights;
- (ii) Assessing and collecting purchase amounts for livestock from buyers on the basis of the false or incorrect weights;
- (iii) Paying sellers of the livestock on the basis of the false or incorrect weights; and
- (iv) Issuing accounts of sale to the sellers of the livestock on the basis of the false or incorrect weights.

Pursuant to section 312(b) of the Act (7 U.S.C. § 213(b)), Respondent Lynchburg Livestock Market, Inc.; Respondents C. Matthew Fariss; and Duane D. Gilliam are assessed, jointly and severally, a civil penalty in the amount of five thousand dollars (\$5,000.00). Two thousand dollars (\$2,000.00) of the civil penalty shall be immediately due and payable. The remaining balance of three thousand dollars (\$3,000.00) shall be paid within a twelve month period from the effective date of this Order. Payment shall be made in accordance with the terms and conditions of the Understanding Regarding Consent Decision (hereinafter "Understanding") entered between Complainant and Respondents. If respondents fail to satisfy the terms of the Consent Decision or the parties' Understanding, the full five thousand dollars (\$5,000.00), less any amounts already paid, will be immediately due and payable.

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 respondents. Copies of this decision shall be served upon the parties.

LYNCHBURG LIVESTOCK MARKET AUCTION, INC.

Respondent

By: 
C. MATTHEW FARISS
President


C. MATTHEW FARISS
Respondent

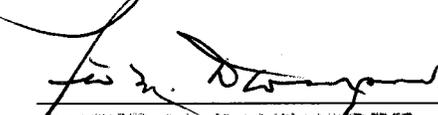

DUANE D. GILLIAM
Respondent


LEIGHTON S. HOURCK
Attorney for Respondents


PAVLINA B. DIROM
Attorney for Respondents


DARLENE M. BOLINGER
Attorney for Complainant

Issued in Washington D.C.
this 19th day of December, 2013


PETER M. DAVENPORT
Administrative Law Judge

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