

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250
JUN 22 2011 10:49
FILED

In re:) P & S Docket No. D-11-0111
)
Superior Livestock Auction, Inc.)
)
Respondent) Decision Without Hearing
) by Reason of Consent

This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.), hereinafter the Act, 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 Respondents have willfully violated the Act. 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 (Rules of Practice) applicable to this proceeding (7 C.F.R. § 1.138).

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.

Complainant agrees to the entry of this decision.

Findings of Fact

1. Superior Livestock Auction, Inc., (Respondent) is a corporation organized and existing under the laws of the State of Nevada, whose business mailing address is P.O. Box 38, Brush, CO 80723.

2. Respondent, at all times material herein, was:

- (1) Engaged as a market agency selling livestock on commission; and
- (2) Registered with the Secretary of Agriculture as a market agency selling livestock on commission.

Conclusions

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

Order

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

- (a) operating or using scales to weigh livestock that are uncertified and untested (9 C.F.R. 201.71(d); 9 C.F.R. 201.72(a)); and
- (b) failing to furnish scale tests and inspection reports to GIPSA as required by 9 C.F.R. 201.72(b).

2. Respondent shall keep and maintain accounts, records and memoranda which fully and correctly disclose the true nature of all transactions involved in its business as required by section 401 of the Act (7 U.S.C. § 221), including but not limited to weight sheets that disclose the name and location of scales where Respondent, or its representatives, weighs livestock, the dates of weighment, names of buyers and sellers, number of head, description of livestock, and actual weight of each draft.

3. Respondent shall be assessed a civil penalty of \$20,000.00.

The provisions of this Order shall become final and effective on the sixth (6th) day after service upon Respondent.

Copies of this Decision and Order shall be served upon the parties.

[Redacted Signature]

James Odle
Manager of Superior Livestock Auction, Inc.
for Respondent

[Redacted Signature]

Brian P. Sylvester, Esq.
Attorney for Complainant

Issued in Washington D.C.

this 24th day of March, 2011

[Redacted Signature]

Administrative Law Judge