

UNITED STATES DEPARTMENT OF AGRICULTURE APR -3 AM 11: 41

BEFORE THE SECRETARY OF AGRICULTURE

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In re:	)	
Lemmon Livestock, Inc.,	)	P&S Docket No. D-12-0015
	)	
and	)	
	)	
S. Paul Huffman	)	
	)	
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 on October 7, 2011, by the Acting Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that respondents Lemmon Livestock, Inc. and S. Paul Huffman 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

- (1) Respondent Lemmon Livestock, Inc. is a corporation organized under the laws of the State of South Dakota, with its principal place of business located at 900 10<sup>th</sup> Street West, Lemmon, South Dakota, 57638. Its mailing address is P.O. Box 477, Lemmon, South Dakota, 57638;
- (2) Respondent Lemmon Livestock, Inc., under the direction, management, and control of respondent S. Paul Huffman, is, and at all times material herein was:
  - (a) Engaged in the business of conducting and operating Lemmon Livestock, Inc., a stockyard posted under and subject to the provisions of the Act;
  - (b) Engaged in the business of selling livestock in commerce on a commission basis;  
and
  - (c) Registered with the Secretary of Agriculture as a market agency to sell livestock on a commission basis in commerce.
- (3) Respondent S. Paul Huffman is an individual and his mailing address is P.O. Box 60, Lemmon, South Dakota, 57638. Respondent Huffman is, and at all times material herein was, the owner and manager of respondent Lemmon Livestock, Inc., and formulated and controlled the policies, practices and activities of respondent Lemmon Livestock, Inc..
- (4) Respondent S. Paul Huffman is engaged in the business of a market agency selling 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 Lemmon Livestock, Inc. and respondent S. Paul Huffman, their agents and employees, directly or through any corporate or other device, in connection with their operations subject to the Act, shall cease and desist from:

1. Failing to properly maintain their 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. 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));
3. Issuing custodial account checks without having sufficient funds on deposit and available in the Custodial Account for Shippers' Proceeds upon which the checks are drawn to pay the checks when presented for payment; and
4. 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).

Pursuant to 7 U.S.C. § 204, respondent Lemmon Livestock, Inc. and respondent S. Paul Huffman, are suspended as registrants under the Act for a period of seven (7) days and thereafter until respondents have demonstrated to the satisfaction of the Packers and Stockyards Program, that the custodial account shortages in respondent Lemmon Livestock, Inc.'s custodial account have been corrected. After the expiration of the initial 7-day suspension period, and provided that respondents demonstrate that respondent Lemmon Livestock, Inc.'s custodial account shortages have been corrected, upon application to the Packers and Stockyards Program, a supplemental order may be issued terminating the suspension.

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), respondents are further assessed, jointly and severally, 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 final and effective upon issuance (7 C.F.R. § 1.138).

Copies of this decision shall be served upon the parties.

[REDACTED]  
S. Paul Huffman  
Respondent, for himself and for  
Respondent Lemmon Livestock, Inc.

[REDACTED]  
Shane C. Penfield  
Shane C. Penfield, Prof. LLC.  
Attorney for Respondents

[REDACTED]  
E. Lawrence Oldfield  
Oldfield & Fox, P.C.  
Attorney for Respondents

[REDACTED]  
Krishna G. Ramaraju  
Attorney for Complainant

Done at Washington, D.C.

this 3<sup>d</sup> day of July, 2012

[REDACTED]  
PETER M. DAVENPORT  
Administrative Law Judge