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UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re:) P&S Docket No. 12-0017
)
Robert Smith d/b/a 4S Cattle Company)
and Four S Cattle Company,)
)
Respondent) 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 respondent Robert Smith d/b/a 4S Cattle Company and Four S Cattle Company 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

1. Respondent Robert Smith d/b/a 4S Cattle Company and Four S Cattle Company is an individual with a mailing address of 4340 Hwy 173, Bigfoot, Texas 78005.

2. Respondent was, at all times material herein, engaged in the business of a market agency buying livestock in commerce on a commission basis.

Conclusions

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

Order

Respondent Robert Smith d/b/a 4S Cattle Company and Four S Cattle Company, his agents and employees, directly or indirectly through any corporate or other device, shall cease and desist from engaging in business in any capacity for which bonding is required under the Packers and Stockyards Act and the regulations promulgated thereunder without first becoming properly registered as required by the Act and by section 201.10(a) of the regulations (9 C.F.R. § 201.10(a)), and without filing and maintaining an adequate bond or its equivalent as required by the Act and by sections 201.29 and 201.30 of the regulations (9 C.F.R. §§ 201.29 and 201.30). In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), respondent is hereby assessed a civil penalty in the amount of nine thousand three hundred and seventy five dollars (\$9,375.00), provided, however, that three thousand seven hundred and fifty dollars (\$3,750.00) of the civil penalty shall be held in abeyance for two years from the date the parties enter into this consent decision.

Respondent shall file an original application for registration (P&SP-1000) and a bond or bond equivalent in the amount of eighty thousand dollars (\$80,000.00) with the Packers & Stockyards Administration's Western Regional Office at the following address: One Gateway Center, 3950 North Lewiston, Suite 200, Aurora, Colorado 80011, telephone (303) 375-4240.

Upon receiving notice that the Packers & Stockyards Administration has approved respondent's application for registration and bond or bond equivalent, respondent shall submit the signed original of this consent decision and order and a payment of two hundred and thirty five dollars (\$235.00) to the following address: USDA Office of the General Counsel, Room 2310 South Building, 14th and Independence Avenue, SE, Washington, D.C. 20250-1400. The first payment of two hundred and thirty five dollars (\$235.00) shall be paid by certified check or money order made payable to the Treasurer of the United States and shall include the docket number of this proceeding, P&S Docket No. 12-0017.

The remaining civil penalty of five thousand three hundred and ninety dollars (\$5,390.00) shall be paid in twenty-two (22) monthly installments of two hundred and thirty five dollars (\$235.00) and a final installment of two hundred and twenty dollars (\$220.00). The first of the twenty-three (23) installments shall be due on or before June 1, 2012, and the remaining twenty-two (22) installments shall be due on or before the first day of each month thereafter until the civil penalty is paid in full. Each monthly installment shall be paid by a certified check or money order made payable to the Treasurer of the United States and shall be mailed to USDA GIPSA, P.O. Box 790335, St. Louis, Missouri 63179-0335. Each certified check or money order shall include the docket number of this proceeding, P&S Docket No. 12-0017.

In accordance with the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996, late payments will be subject to interest and or penalty charges. In the event of default on the payment schedule (which default remains uncured for 60 days from the due date thereof), the total unpaid balance shall be immediately due and payable without demand or notice thereof. The balance due will be unpaid principal, interest calculated from the

date of the initial due date on the payment schedule, and late payment penalty. Failure to complete payments agreed to in this payment schedule will result in this debt being prepared for referral to the United States Department of Treasury for further collection action. The interest rate will be the current value of funds rate established by the Department of Treasury. For late payments, interest will be charged from the first day following the due date of the payment.

If, after the first 60 days of the two year abeyance period, the respondent operates subject to the Act in any capacity requiring registration and bond without filing and maintaining the required registration and bond, full payment of the three thousand seven hundred and fifty dollars (\$3,750.00) held in abeyance will become due and payable. Respondent will have thirty (30) days from the date he receives written notice from the Deputy Administrator of the Packers and Stockyards Program, indicating that respondent violated the terms of this order, to make full payment of the three thousand seven hundred and fifty dollars (\$3,750.00) held in abeyance, without further hearing or procedure. The payment of the three thousand seven hundred and fifty dollars (\$3,750.00) shall be paid by a certified check or money order made payable to the Treasurer of the United States and shall be mailed to USDA GIPSA, P.O. Box 790335, St. Louis, Missouri 63179-0335. The certified check or money order shall include the docket number of this proceeding, P&S Docket No. 12-0017.

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.

[REDACTED]
Robert Smith d/b/a 4S Cattle Company and Four S Cattle Company
Respondent

[REDACTED]
Troy ^{III} S. Martin, III Esq.
Attorney for Respondent

[REDACTED]
Thomas N. Bolick
Attorney for Complainant

Done at Washington, D.C.

this 7th day of May, 2012

[REDACTED]
Administrative Law Judge