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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. D-12-0390
)
 Riata Cattle Company, Inc.,)
)
 and)
)
 Porfirio Garcia a/k/a Fedo Garcia)
)
)
)
 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 by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that respondents 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

- (a) Respondent Riata Cattle Company, Inc. is a corporation organized under the laws of the State of Texas, with its principal place of business located at 9865 FM 2845, Lyford, TX, 78569. Its mailing address is P.O. Box 307, Raymondville, TX, 78580.
- (b) Respondent Porfirio Garcia, also known as Fedo Garcia, is an individual whose mailing address is in the State of Texas.
- (c) Respondent Riata Cattle Company, Inc., under the direction, management and control of respondent Porfirio Garcia, is, and at all times material herein was:
- (1) Engaged in the business of a dealer buying and selling livestock in commerce; and
 - (2) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce.
- (d) Respondent Porfirio Garcia is, and at all times material herein was:
- (1) President of respondent Riata Cattle Company, Inc.;
 - (2) Owner of 100% of the stock issued by respondent Riata Cattle Company, Inc.;
 - (3) Responsible for the direction, management and control of respondent Riata Cattle Company, Inc.; and
 - (4) The *alter ego* of respondent Riata Cattle Company, Inc..

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

Respondents, their agents and employees, successors and assigns, directly or through any corporate or other device, in connection with their activities subject to the Act, shall cease and desist from purchasing livestock and failing to pay for such livestock purchases the full amount of the purchase price for livestock within the time period required by section 409 of the Act (7 U.S.C. § 228b) and section 201.43 of the regulations (9 C.F.R. § 201.43).

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), respondents are assessed, jointly and severally, a civil penalty in the amount of fifteen thousand dollars (\$15,000.00), payable to the "Treasurer of the United States". The first check or money order in the amount of three-thousand dollars (\$3,000) shall be due immediately and be sent to Complainant's Counsel with a copy of the signed consent. The remaining payments of two-thousand dollars (\$2,000) each shall be mailed by the end of each subsequent month for the following six months to the following address: USDA, GIPSA, P.O. Box 790335, St. Louis, MO, 63179-0335. The certified checks or money orders must include the docket number of this proceeding, "P & S Docket No. D-12-0390".

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 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.

[Redacted signature]

Porfirio Garcia, on behalf of himself and
on behalf of Riata Cattle Company, Inc.
Respondents

[Redacted signature]

Krishna G. Ramaraju
Attorney for Complainant

Done at Washington, D.C.

this 16th day of May, 2012

[Redacted signature]

PETER M. DAVENPORT

Administrative Law Judge