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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-12-0239
)
Headwaters Livestock Auction, LLC)
)
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.) (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 (Complainant), alleging that Headwaters Livestock Auction, LLC (Respondent) willfully violated the Act and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.) (Regulations). This consent decision is entered pursuant to the consent decision provision of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statues (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 consent decision.

Complainant agrees to the entry of this consent decision.

Findings of Fact

1. Respondent Headwaters Livestock Auction, LLC is a limited liability company organized and existing under the laws of the State of Montana.

Respondent's current mailing address is P.O. Box 590, Three Forks, MT 59752.

2. At all times material to the Complaint, Respondent was:

(a) Engaged in the business of a market agency selling livestock in commerce on a commission basis; and

(b) Registered with the Secretary of Agriculture as a market agency to buy and sell livestock in commerce on a commission basis and as a dealer buying and selling livestock in commerce for its own account or for the account of others.¹

Conclusion

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

Order

Respondent Headwaters Livestock Auction, LLC, its agents and employees, directly or through any corporate or other device, in connection with its operations subject to the Act, shall cease and desist from:

1. Failing to deposit in its Custodial Account for Shippers' Proceeds (Custodial Account), within the time periods prescribed by section 201.42(c) of the

¹ Since the time of the allegations in the Complaint, Respondent's registration expired pursuant to section 201.10 of the Regulations (9 C.F.R. § 201.10) due to Respondent's failure to file a complete Annual Report of Market Agency – SOC for the calendar year ending December 31, 2010. A corrected report was filed on October 31, 2011. Respondent did not file a new application for registration and has ceased business operations.

Regulations (9 C.F.R. § 201.42(c)), amounts equal to the proceeds receivable from the sale of consigned livestock; and

2. Failing to otherwise properly maintain its Custodial Account in strict conformity with the Act and section 201.42 of the Regulations (9 C.F.R. § 201.42).

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondent is assessed a civil penalty in the amount of Five Thousand Dollars (\$5,000.00).

This Order shall have the same force and effect as if entered after full hearing. The provisions of this Order shall become effective upon issuance.

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

Issued in Washington, D.C.

this 30th day of August, 2012


Administrative Law Judge

JANICE K. BULLARD

Headwaters Livestock Auction, LLC,
Respondent,

By: 

Title: 


A. Suzanne Nellen
Attorney for Respondent


Leah C. Battaglioli
Attorney for Complainant

