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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P & S Docket No. D-12-0171
)
Mark K. Holder, d/b/a)
Mark Holder Livestock)
)
Respondent) Consent Decision

This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*) (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 the Respondent willfully violated the Act. 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 Statutes (7 C.F.R. § 1.138) (Rules of Practice).

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 consent decision.

Complainant agrees to the entry of this consent decision.

Findings of Fact

1. Mark K. Holder d/b/a Mark Holder Livestock (Respondent) is an individual whose business address is 809 Royal Elm Circle, Hartsville, TN 37074 and whose mailing address is P.O. Box 49, Hartsville, TN 37074.

2. At all times material herein, Respondent was:

(a) Engaged in the business of buying and selling livestock in commerce for his own account or the account of others as a dealer and as a market agency buying on commission; and

(b) Registered with the Secretary of Agriculture as a dealer buying and selling livestock.

Conclusions

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

Order

Respondent Mark K. Holder d/b/a Mark Holder Livestock, his agents and employees, directly, or through any corporate or other device, in connection with his activities subject to the Packers and Stockyards Act, shall cease and desist from:

1. Issuing checks in payment for livestock without having and maintaining sufficient funds on deposit and available in the accounts upon which they are drawn to pay such checks when presented;

2. Purchasing livestock and failing to pay for the livestock purchases within the time period required by the Act; and

3. Purchasing livestock and failing to pay the full purchase price for the livestock purchases.

Pursuant to section 312 of the Act (7 U.S.C. § 213), Respondent is assessed a civil penalty of \$2,000.00. Respondent is also ordered to make full restitution, in the amount of \$70,809.26, to the livestock sellers affected by the allegations set forth in paragraph II(c) of the Complaint. Payment of the civil penalty and all restitution payments shall be made in accordance with the "Understanding Regarding Consent Decision" executed by the parties.

The provisions of this order shall become effective on the sixth day after service of this order on the Respondent.

Copies of this decision shall be served upon the parties.

Issued in Washington D.C.

this 13th day of September, 2012


Administrative Law Judge

[Redacted]

Mark K. Holder
d/b/a Mark Holder Livestock
Respondent

9-10-12
Date

[Redacted]

GERARD EFTINK, ESQ.
Attorney for Respondent

9-11-12
Date

[Redacted]

CIARRA A. TOOMEY, ESQ.
Attorney for Complainant

-12-12
Date