

USDA
C...DHC
2013 JAN -2 PM 11:39
RECEIVED

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P & S Docket No. D-12-0535
Wilson Horse & Mule Sale, Inc.,)
)
)
)
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 decision is entered pursuant to the consent decision provisions 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 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.

Complainant agrees to the entry of this decision.

Findings of Fact

1. Wilson Horse & Mule Sale, Inc. (Respondent) is a corporation organized and existing under the laws of the State of Tennessee. Its mailing address is: 1050 West Cemetery Road, Cookeville, TN 38506.
2. Respondent is, and at all times material herein, was:

- (1) Engaged in the business of conducting and operating Wilson Horse & Mule Sale, Inc., a stockyard posted under and subject to the provisions of the Act;
- (2) Engaged in the business of a market agency, selling consigned livestock on a commission basis in commerce; and
- (3) Registered with the Secretary of Agriculture as a market agency to sell livestock on a commission basis in commerce.

Conclusions

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

Order

1. The Respondent, its agents and employees, directly or through any corporate or other device, in connection with activities subject to the Act, shall cease and desist from:
 - a) failing to deposit in its Custodial Account for Shippers' Proceeds within the times prescribed in section 201.42 of the regulations (9 C.F.R. § 201.42) amounts equal to the outstanding proceeds receivable due from the sale of consigned livestock; and
 - b) 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); and
 - c) failing to maintain its Custodial Account for Shippers' Proceeds in strict conformity with section 201.42 of the regulations (9 C.F.R. § 201.42);
2. In accordance with section 312(b) of the Act (7 U.S.C. 213(b)), Respondent is assessed a civil penalty of \$4,000.00, as well as a 14 day suspension, and thereafter until

respondent demonstrates that the custodial account is currently in balance (to be verified by GIPSA audit), which will take effect as of the day this consent decision becomes effective.

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

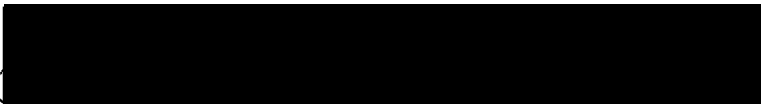
Copies of this decision shall be served upon the parties.

Issued in Washington D.C.


this 2nd day of January, 2013



Administrative Law Judge



Wilson Horse & Mule Sale, Inc.,
Respondent



Brian P. Sylvester, Esq.,
Attorney for Complainant