

UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

2013 MAR 29 AM 9:02

In re:

John Michael Loy
d/b/a Loy's Sale Barn

Respondent.

) P & S Docket No. 13-0166

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) 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.*), hereinafter referred to as the "Act," and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 *et seq.*), hereinafter referred to as the "regulations" by a Complaint and Notice of Hearing filed by the Acting Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that respondent willfully violated the Act and the regulations. 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 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 John Michael Loy doing business as Loy's Sale Barn, with a business mailing address of 120 North 800 E, Portland, Indiana 47371.

(2) At all times material herein, and specifically during the time period from July 2010 through May 2011, was:

(a) Engaged in the business of conducting and operating Loy's Sale Barn, as a stockyard posted under and subject to the provisions of the Act;

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

(c) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce and as a market agency to sell livestock in commerce on a commission basis.

(3) Respondent John Michael Loy is an individual whose business mailing address is 120 N. 800 E, Portland, IN 47371.

(4) At all times material herein, Respondent John Michael Loy was:

(a) Owner of 50% of Respondent Loy's Sale Barn; and

(b) ~~In conjunction with Respondent Donald Loy~~, responsible for the direction, management and control of Respondent Loy's Sale Barn;

(5) Respondent Donald Loy, owner of 50% of Respondent Loy's Sale Barn and an individual with a business mailing address of 120 N. 800 E, Portland, IN 47371, died on March 3, 2012.

Conclusions

John Michael Loy d/b/a Loy's Sale Barn having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, such decision will be entered.

Order

Respondent John Michael Loy d/b/a Loy's Sale Barn, its agents and employees, directly or indirectly through any corporate or other device, shall cease and desist from failing to properly maintain and use the "Custodial Account for Shippers' Proceeds".

Respondent John Michael Loy d/b/a Loy's Sale Barn shall keep and maintain accounts, records, and memoranda which fully and accurately disclose the true nature of their operations subject to the Act, including, but not limited to purchase and sale invoices.

In accordance with section 312(b) of the Act (7 U.S.C. §213(b)), Respondent John Michael Loy d/b/a Loy's Sale Barn is assessed a civil penalty in the amount of fifteen thousand dollars (\$15,000.00).

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

Respondent John Michael Loy
d/b/a Loy's Sale Barn

[REDACTED]

JOHN MICHAEL LOY
Respondent

[REDACTED]

WESLEY A. SCHEMENAUR
Attorney for Respondent

[REDACTED]

DARLENE M. BOLINGER
Attorney for Complainant

Done at Washington, D.C.

this 29th day of March, 2013

[REDACTED]

Administrative Law Judge