UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

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WASH, DC

In re:	)	P & S Docket Nos.
	)	
Ashville Stockyard, Inc.,	)	14-0103
	)	
Bradley Plunkett	)	14-0104
	)	
and	)	
	)	
Tilda Plunkett	)	14-0105
	)	
Respondents	)	Consent Decision

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, alleging that the respondents willfully violated the Act and the regulations promulgated thereunder (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) (Rules of Practice).

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 consent decision.

Complainant agrees to the entry of this consent decision.

Findings of Fact

1. Respondent Ashville Stockyard, Inc. (Respondent Ashville) is a corporation organized and existing under the laws of the State of Alabama whose business address is 18390 U.S. Highway 11 South, Ashville, Alabama 35953 and whose mailing address is P.O. Box 580, Ashville, Alabama 35953.

2. At all times material herein, Respondent Ashville was:

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

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

3. Respondent Bradley Plunkett is an individual whose current mailing address is in the State of Alabama. The address will not be stated in this consent decision to protect the privacy of Mr. Plunkett, but the address was provided to the Hearing Clerk's Office, United States Department of Agriculture, for the purposes of service.

4. At all times material herein, Respondent Bradley Plunkett was:

(a) President and 100% shareholder of Respondent Ashville;

(b) Registered agent for Respondent Ashville;

(c) The person who, together with Respondent Tilda Plunkett, has managed, directed, and controlled Respondent Ashville; and

(d) Not individually registered with the Secretary of Agriculture as a

dealer to buy and sell livestock in commerce or as a market agency to buy or sell on commission.

5. Respondent Tilda Plunkett is an individual whose current mailing address is the same address as Respondent Bradley Plunkett. The address was provided to the Hearing Clerk as stated in Finding of Fact 3 above.

6. At all times material herein, Respondent Tilda Plunkett was:

(a) Secretary and Treasurer of Respondent Ashville;

(b) The person who, together with Respondent Bradley Plunkett, has managed, directed, and controlled Respondent Ashville; and

(c) Not individually registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce or as a market agency buying or selling on commission.

Conclusion

Respondents 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 Ashville, Respondent Bradley Plunkett, and Respondent Tilda Plunkett, their agents and employees, directly or through any corporate or other device, in connection with their operations subject to the Act, shall cease and desist from failing to properly maintain their Custodial Account for Shippers' Proceeds in strict conformity with the Act and section 201.42 of the regulations (9 C.F.R. § 201.42).

Respondent Ashville shall be suspended as a registrant under the Act for a period of fourteen (14) days. However, this period of suspension will be held in abeyance

provided that Respondent Ashville is in compliance with the terms of this Consent Decision and Order. It is within GIPSA's sole discretion to determine whether Respondent Ashville is in compliance with the terms of this Consent Decision and Order. If GIPSA determines that Respondent Ashville is not in compliance with the terms of this Consent Decision and Order, GIPSA may petition the ALJ to order the fourteen (14) day suspension held in abeyance to become effective immediately without further procedure. If GIPSA has not petitioned the ALJ to order the fourteen (14) day suspension against Respondent Ashville within one year from the effective date of this consent decision and order, the suspension will be terminated.

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondent Ashville, Respondent Bradley Plunkett, and Respondent Tilda Plunkett are further assessed, jointly and severally, a civil penalty in the amount of Eight Thousand Dollars ($8,000.00), which shall be paid by a certified check or money order made payable to the Treasurer of the United States and shall be sent to Ciarra A. Toomey, Attorney, Office of the General Counsel, U.S. Department of Agriculture, Room 2331-B, South Building, 14th and Independence Avenue, SW., Washington, D.C. 20250. The certified check or money order should include the docket numbers of this proceeding, P&S Docket No. 14-0103, 14-0104, and 14-0105.

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 upon issuance (7 C.F.R. § 1.138).

Copies of this decision shall be served upon the parties.

Done at Washington, D.C.
this 9 day of JAN, 2015

[redacted] for

Acting Chief Administrative Law Judge
Janice K. Bullard

Ashville Stockyards, ~~LLC,~~ INC Respondent

By: [redacted]

Title: president

[redacted]
Bradley Plunkett, Respondent

[redacted]
Tilda Plunkett, Respondent

[redacted]
Gerard D. Eftink
Attorney for Respondents

[redacted]
Ciarra A. Toomey
Attorney for Complainant