

BEFORE THE SECRETARY OF AGRICULTURE 705 OCT 28 PM 3:30

In re:) P. & S. Docket No. D-05-0001
)
Washington Livestock Market Center,)
Inc., d/b/a Quincy Livestock Market)
and John Rodrick Nuckolls,)
Respondents) Decision Without Hearing by Reason of
) Consent

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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"), by a complaint filed by the Deputy Administrator, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that Respondents willfully violated the Act and the regulations promulgated thereunder. This decision is entered pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes applicable to this proceeding (7 C.F.R. § 1.138).

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 decision.

Complainant agrees to the entry of this decision.

Findings of Fact

1. Washington Livestock Market Center, Inc. d/b/a Quincy Livestock Market (hereinafter, "the corporate Respondent"), is a corporation whose business mailing address is 11952 Road #10, NW, Quincy, Washington 98848.

2. The corporate Respondent was at all times material herein:

- (a) A posted stockyard subject to the provisions of the Act;
- (b) Engaged in the business of a market agency, selling livestock on a commission basis; and
- (c) Registered with the Secretary of Agriculture as a market agency, to sell livestock on a commission basis.

3. The corporate Respondent filed for Chapter 11 Bankruptcy in the United States Bankruptcy Court, Eastern District of Washington, on October 6, 2003.

4. John Rodrick Nuckolls (hereinafter, "the individual Respondent"), is an individual whose business mailing address is 11952 Road #10, NW, Quincy, Washington 98848.

5. The individual Respondent was, at all times material herein:

- (a) President and owner of 51% of the stock of the corporate Respondent; and
- (b) Responsible for the direction, management and control of the corporate Respondent.

6. The individual Respondent filed for Chapter 11 Bankruptcy in the United States Bankruptcy Court, Eastern District of Washington, on October 6, 2003.

Conclusions

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

Order

The corporate Respondent, Washington Livestock Market Center, Inc., d/b/a Quincy Livestock Market, its agents and employees, directly or through any corporate or other device, in

connection with its activities subject to the Act, and the individual Respondent, John Rodrick Nuckolls, shall cease and desist from:

1. Failing to maintain and use properly the corporate Respondent's Custodial Account for Shippers' Proceeds;
2. Using funds received as proceeds from the sale of livestock sold on a commission basis for Respondents' own purposes or for any purpose other than the payment of lawful marketing charges and the remittance of net proceeds to the consignors and shippers of livestock;
3. Issuing checks in payment of the net proceeds from the sale of consigned livestock without having sufficient funds on deposit and available in the Custodial Account upon which such checks are drawn to pay such checks when presented; and
4. Failing to remit the full amount of the net proceeds for livestock within the time period required by the regulations.

Respondents shall keep accounts, records and memoranda which fully and correctly disclose all transactions conducted subject to the Act, including, but not limited to, an accounts receivable ledger, a cash receipts journal, an accurate check register and all deposit slips.

The corporate Respondent is suspended as a registrant under the Act, and the individual Respondent will not be registered under the Act, for a period of five (5) years. Pursuant to section 303 of the Act (7 U.S.C. § 203), no person may operate as a market agency or dealer subject to the Act without first being registered in the manner prescribed by the Secretary. The corporate Respondent's suspension will continue until it has demonstrated that the shortages in its custodial account have been corrected. Provided, however, that upon application to Packers and Stockyards Programs, a supplemental order may be issued terminating the suspension at any time after 90 days, upon demonstration to the satisfaction of Packers and Stockyards Programs of circumstances


warranting modification of the order. Provided, further, that this order may be modified upon application to Packers and Stockyards Programs to permit the individual Respondent's salaried employment by another registrant or packer after the expiration of 90 days of this suspension term and upon demonstration of circumstances warranting modification of the order.

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

Copies of this decision shall be served upon the parties.


Issued this 28th day of


October, 2005.


Administrative Law Judge

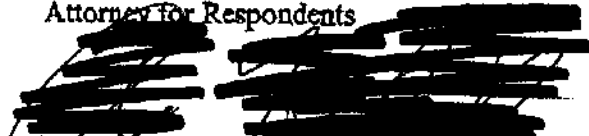
Peter M. Dalrymple

Pres-


for Washington Livestock Market Center, Inc.
d/b/a Quincy Livestock Market


John Rodrick Nuckolls
Respondents


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