

RESPONDENT UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re:) P & S Docket No. D-12-0442
)
 Chad Duncan, dba)
 T & C Cattle,)
 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 and the regulations issued thereunder (9 C.F.R. § 201.1 *et seq.*). 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. Chad Duncan, dba T & C Cattle, hereinafter referred to as the Respondent, is an individual doing business in the state of Missouri.
2. Respondent at all times material herein, was:
 - (a) Engaged in the business of buying and selling livestock in commerce as a dealer or on a commission basis as a market agency.

(b) Not registered as a dealer or as a market agency with the Secretary of Agriculture.

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, his 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) engaging in operations subject to the Act without maintaining an adequate bond or bond equivalent as required by section 312(a) of the Act (7 U.S.C. § 213) and section 201.29 of the regulations (9 C.F.R. § 201.29); and
 - (b) failing to comply with the requirements of section 312 (a) of the Act (7 U.S.C. § 213(a)), specifically:
 - i. selling, billing, and collecting funds from principals on the basis of false and incorrect purchase prices; and
 - ii. issuing accounts of purchase or sale which fail to show the true and correct nature of the livestock transaction accounted for therein, including, but not limited to the true and correct purchase or sale price; and
 - iii. preparing, changing, or altering invoices or other documents for the purpose of concealing or disguising fraudulent price increases or the true nature of the transaction.

2. The Respondent, his agents and employees, directly or through any corporate or other device, in connection with activities subject to the Act, shall maintain adequate records, invoices and/or memoranda fully and correctly disclosing his purchase and sale of livestock, in accordance with section 401 of the Act (7 U.S.C. § 221).
3. In accordance with section 312(b) of the Act (7 U.S.C. § 213 (b)), Respondent is assessed a civil penalty of Seven Thousand, Two Hundred and Fifty dollars (\$7,250.00). The civil penalty payment shall be paid in installments in accordance with the terms and conditions of the Understanding Regarding Consent Decision (hereinafter "Understanding") entered into by the Complainant and Respondents. An additional civil penalty payment of Three Thousand, Two Hundred and Sixty Five dollars and Thirty-Seven cents (\$3265.37) will be held in abeyance so long as Respondent pays restitution to the parties named in the Understanding in accordance with the terms of the Understanding.
4. The provisions of this order shall become effective on the sixth day after service of this order on Respondent.

Copies of this decision shall be served upon the parties.

Issued in Washington, D.C.

This 28th day of August, 2012


Administrative Law Judge



Chad Duncan, dba T & C Cattle
Respondent



Tracey Manoff
Attorney for Complainant