

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

P. & S. Docket No. D-05-0015

In re: LONDON AUCTION BARN, INC.,

Respondent

DEFAULT DECISION AND ORDER

This proceeding was instituted by the filing of a Complaint under the Packers and Stockyards Act, (7 U.S.C. § 181 *et seq.* hereinafter “the Act”) on May 26, 2005, by the Deputy Administrator, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that the Respondent continued to operate as a market agency subject to the requirements of the Act.

A copy of the Complaint was mailed by the Hearing Clerk’s Office to the Respondent by certified mail, return receipt requested, which was returned by the United States Postal Service on June 27, 2005, with the notation “unclaimed.” The Complaint was then re-mailed by the Hearing Clerk’s Office to the Respondent on June 28, 2005, by regular mail as provided by the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes, hereinafter referred to as the Rules of Practice (7 C.F.R. § 1.147 *et seq.*). Respondent was informed in the accompanying letter of service that an Answer to the Complaint should be filed pursuant to the Rules of Practice and that a failure to answer any allegation in the Complaint would constitute an admission of that allegation. The Respondent failed to file an Answer within the time prescribed in the Rules of Practice; thus the material facts alleged in the Complaint, which are admitted by Respondent’s default, are adopted and set forth herein as Findings of Fact and this Decision and Order is issued pursuant to section

1.139 of the Rule of Practice, 7 C.F.R. § 1.139.

FINDINGS OF FACT

1. London Auction Barn, Inc., hereinafter referred to as Respondent, is a corporation organized and existing under the laws of the State of Arkansas. Respondent's business mailing address is 11096 Highway 64 West, London, Arkansas 72847-0277.

2. Respondent was at all times material herein:

(a) Engaged in the business of conducting and operating as a market agency selling livestock in commerce on a commission basis; and

(b) Registered with the Secretary of Agriculture as a market agency selling livestock in commerce on a commission basis.

3. Respondent was notified by certified letter dated June 28, 2004, that its practice of operating without a bond or bond equivalent constituted a violation of the Packers and Stockyards Act and was instructed to take immediate action to bring its operation into compliance with the Act.¹ Further, Respondent was notified that, if it continued its operations as a market agency under the Act after that date without providing adequate bond coverage or its equivalent, Respondent would be in violation of section 312(a) of the Act (7 U.S.C. § 213(a)), and sections 201.29 and 201.30 of the Regulations (9 C.F.R. §§ 201.29, 201.30). Notwithstanding this notice, Respondent continued to engage in the business of selling livestock on a commission basis without maintaining an adequate bond or its equivalent.

4. On or about the date and in the transactions listed below, Respondent engaged in the

¹ On July 01, 2004, Respondent signed and dated a return receipt for the certified letter.

business of selling livestock in commerce on a commission basis without maintaining an adequate bond or its equivalent.

Seller	Purchase Date	No. Of Livestock	Invoice Amount	Check Amount
Jim Bearden	11/13/04	1	\$75.00	\$50.50
Steve Crossno	11/13/04	3	\$315.00	\$167.50
James Tharen	11/13/04	1	\$700.00	\$610.50
Terry Bestal	11/13/04	3	\$230.00	\$95.00
Belva Crouch	11/13/04	5	\$1,370.00	\$1,067.00
Jack Dwyer	11/13/04	1	\$1,050.00	\$923.00
Larry HardCastle	11/13/04	1	\$370.00	\$316.00
Chris Hicks	11/13/04	1	\$435.00	\$349.50
Bill Jeffrey	11/13/04	1	\$430.00	\$370.00
Pat Knight	11/13/04	1	\$200.00	\$138.00
Brenda Maness	11/13/04	2	\$330.00	\$270.00
Gary Miller	11/13/04	1	P/O	N/A
Tammy Miller	11/13/04	2	\$160.00	\$117.00
Bill Mitchell	11/13/04	1	\$300.00	\$253.00
Justin Nalls	11/13/04	5	\$1,110.00	\$908.00
Fred Parker	11/13/04	8	\$1,210.00	\$950.50
Charlotte Sayers	11/13/04	2	\$760.00	\$602.50
Don Smith	11/13/04	1	\$475.00	\$410.50
Jane Stapleton	11/13/04	2	\$835.00	\$670.00
Bobby Wagoner	11/13/04	3	\$815.00	\$640.00
Bonnie Williams	11/13/04	2	\$155.00	\$60.50

Buyer	Purchase Date	No. Of Livestock	Invoice Amount	Check No.
Snowball	11/13/04	3	\$980.70	Unlisted
Sylvia	11/13/04	2	\$450.00	Unlisted
Billy Webb	11/13/04	2	\$1,144.55	8864
Daryl Clark	11/13/04	1	\$500.00	Paid by Deduct
Gary & April	11/13/04	1	\$553.00	1053
Justin Nalls	11/13/04	2	\$489.00	Unlisted
No. 2000	11/13/04	5	\$1,665.00	Unlisted
Jack Dwyer	11/13/04	5	\$816.50	2594
No. 1500	11/13/04	3	\$275.00	Unlisted
Pat Knight	11/13/04	1	\$292.00	5864
No. 408	11/13/04	1	\$120.00	Unlisted
Michael Adair	11/13/04	1	\$1,050.00	537
Jim Maxwell	11/13/04	1	\$1,030.25	1014
Dean Baker	11/13/04	1	\$574.86	3400
No. 115	11/13/04	1	\$130.00	Unlisted
Chuck	11/13/04	1	\$95.00	Paid by Deduct
Aaron Rahn	11/13/04	1	\$200.00	1761
No. 142	11/13/04	1	\$150.00	Unlisted
Chad	11/13/04	1	\$75.00	Illegible

CONCLUSIONS OF LAW

By reason of the above Findings Of Fact, Respondent is found to have willfully violated Section 312(a) (7 U.S.C. § 213(a)) and Sections 201.29 and 201.30 of the Regulations (9 C.F.R. §§ 201.29, 201.30).

ORDER

1. The Respondent, its agents and employees, directly or indirectly through any corporate or other device, in connection with its operation subject to the Act, shall **CEASE** and **DESIST** from engaging in business in any capacity for which bonding is required under the Act and the Regulations promulgated thereunder, without filing and maintaining an adequate bond or its equivalent, as required by the Act and the Regulations.

2. The Respondent is suspended as a registrant under the Act until such time as it complies with the bonding requirements under the Act and the Regulations. When and at such time as the Respondent demonstrates that it is in full compliance with such bonding requirements, an appropriate Order may be issued terminating this suspension.

3. In accordance with Section 312(b) of the Act (7 U.S.C. § 213(b)), the Respondent is assessed a civil penalty in the amount of One Thousand Dollars (\$1,000.00), which shall be paid by certified check or money order made payable to the Treasurer of the United States.

4. This Decision and Order shall become final and effective without further proceedings thirty-five days after service on the Respondent, if not appealed to the Judicial Officer in accordance with the Rules of Practice (7 C.F.R. § 1.145).

Done at Washington, D.C.
February 1, 2007

PETER M. DAVENPORT
Administrative Law Judge

