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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

RECEIVED

Docket No. 11-0168

In re: The New Gainesville Livestock
Auction, LLC, and
James Peyrot, Jr.,

Respondents


Order

A Consent Decision having been entered this date, the oral hearing of this matter
scheduled to commence at 9:00 AM, Local Time, on October 18, 2011 in Dallas, Texas is

CANCELLED.

Copies of this Order will be served upon the parties by the Hearing Clerk.

August 26, 2011


Peter M. Davenport
Chief Administrative Law Judge

Copies to: Brian Sylvester, Esquire
Ernest H. Van Hooser, Esquire
Neal R. Gross & Co., Inc.

Hearing Clerk's Office
U.S. Department of Agriculture
1400 Independence Avenue SW
Room 1031, South Building
Washington, D.C. 20250-9203
202-720-4443
Fax: 202-720-9776

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| In re: |) | P & S Docket No. D-11-0168 |
| The New Gainesville Livestock |) | |
| Auction, LLC, and |) | |
| James Peyrot, Jr., |) | |
| |) | |
| |) | |
| 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.), (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 Respondents willfully violated the Act. 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 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. The New Gainesville Livestock Auction, LLC (Respondent New Gainesville) is a limited liability company organized and existing under the laws of the state of Texas. Its mailing address is: 1920 Refinery Road, Gainesville, TX 76420.
2. Respondent New Gainesville is, and at all times material herein, was:

(1) Engaged in the business of a market agency selling livestock on a commission basis; and

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

3. Respondent New Gainesville, at all times material herein:

(1) Owned and operated an auction market known as The New Gainesville Livestock Auction in Gainesville, TX (Gainesville Livestock);

(2) Owned and operated an auction market in Muenster, TX known as The New Gainesville Livestock Auction LLC d.b.a. Muenster Livestock Auction (Muenster Livestock).

4. James Peyrot, Jr. (Respondent Peyrot) is an individual. Respondent Peyrot's business mailing address is his home address. In order to protect the personal privacy of Respondent, Complainant is not providing the principal's address in this Complaint, but Complainant has provided the address to the Hearing Clerk so that service can be effected.

5. Respondent Peyrot is, and at all times material herein, was:

(1) Managing member and one hundred percent owner of Respondent New Gainesville; and

(2) Responsible for the day-to-day management, direction, and control of Respondent New Gainesville.

6. Respondent Peyrot is, and at all times material herein, was:

(1) Managing partner and one hundred percent owner of Redbone Livestock II, L.P (Redbone Livestock); and

(2) Responsible for the day-to-day management, direction, and control

of Redbone Livestock.

Conclusions

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

Order

1. The Respondents, their 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) Failing to deposit in their Custodial Accounts for Shippers' Proceeds within the times prescribed in section 201.42 of the regulations (9 C.F.R. § 201.42) amounts equal to the outstanding proceeds receivable from the sale of consigned livestock;

b) Failing to maintain their Custodial Accounts for Shippers' Proceeds in strict conformity with section 201.42 of the regulations (9 C.F.R. § 201.42);

2. In accordance with section 312(b) of the Act (7 U.S.C. 213(b)), Respondent is assessed a civil penalty of \$12,500.00.

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

Copies of this decision shall be served upon the parties.

Issued in Washington D.C.

this 26th day of August, 2011

[Redacted Signature]

Administrative Law Judge

[Redacted Signature]

James Peyrot, Jr.
Respondent

Ernest Van Hooser, Esq.
Attorney for Respondents

Brian Sylvester, Esq.
Attorney for Complainant