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U.S. DEPT. OF AGRICULTURE
OFFICE OF THE SECRETARY

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:) P & S Docket No. D-12-0029
)
Shirley Dance,)
)
Mike Whitfield,)
)
N.B. Hutchinson, Jr.,)
)
Pete Pingrey,)
)
d.b.a. Gowan Stockyards)
)
)
Respondents) Consent Decision and Order

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. §§ 181 et seq.), 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 respondents Mike Whitfield, N.B. Hutchinson, Jr. and Pete Pingrey, doing business as Gowan Stockyards, willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. §§ 201.1 et seq.) and that the application for registration under the Act of respondents Shirley Dance, Mike Whitfield, N.B. Hutchinson, Jr. and Pete Pingrey, doing business as Gowan Stockyards, should be denied. This decision is entered pursuant to the consent decision provision 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.

The complainant agrees to the entry of this decision.

Findings of Fact

- (1) Shirley Dance, Mike Whitfield, N.B. Hutchinson, Jr., and Pete Pingrey are partners doing business as Gowan Stockyards, with their principal place of business located at 2484 Attala Road 3034, Kosciusko, Mississippi, 39090. Their business mailing address is P.O. Box 336, Kosciusko, Mississippi, 39090.
- (2) Respondents Mike Whitfield, N.B. Hutchinson, Jr., and Pete Pingrey are, and at all times material herein were:
 - (a) Engaged in the business of conducting and operating Gowan Stockyards, a stockyard posted under and subject to the provisions of the Act;
 - (b) Engaged in the business of buying and selling livestock in commerce on a commission basis and buying and selling livestock in commerce for their own account; and
 - (c) Registered with the Secretary of Agriculture as a market agency buying and selling livestock in commerce on a commission basis and as a dealer to buy and sell livestock in commerce.
- (3) Respondent Shirley Dance is not currently registered with the Secretary of Agriculture under the Act and regulations.

(4) On June 25, 2009, respondent herein Mike Whitfield agreed to a consent decision and order *In re: Clifford F. Dance, Jr. and Mike Whitfield d.b.a. Gowan Stockyards*, P&S Docket No. D-07-0163.

Conclusions

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

Order

Respondents Shirley Dance, Mike Whitfield, N.B. Hutchinson, Jr. and Pete Pingrey, doing business as Gowan Stockyards, directly or through any corporate or other device, in connection with their operations subject to the Act, shall cease and desist from:

1. 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);
2. Using funds received from the sale of consigned livestock for any purpose other than those specifically permitted by section 201.42(d) of the Regulations (9 C.F.R. § 201.42(d)); and
3. Failing to properly indicate "Custodial Account for Shippers' Proceeds" or an equivalent identifying designation on their banking account statements and checks.

Respondents Mike Whitfield, N.B. Hutchinson, Jr. and Pete Pingrey, doing business as Gowan Stockyards, are suspended as registrants under the Act for a period of 14 days and

thereafter until respondents have demonstrated to the satisfaction of the Packers and Stockyards Program that the custodial account shortages in their custodial account have been corrected.

After the expiration of the initial 14-day suspension period, and provided that respondents demonstrate that their custodial account shortages have been corrected, upon application to the Packers and Stockyards Program, a supplemental order will be issued terminating the suspension. At such time, respondents' application reflecting respondent Shirley Dance replacing Clifford F. Dance, Jr., as a partner with respondents Mike Whitfield, N.B. Hutchinson, Jr., and Pete Pingrey in the business of conducting and operating Gowan Stockyards, and as a market agency selling livestock on a commission basis in commerce will be processed in accordance with P&SP procedures.

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 on the sixth day after service of this consent decision and order on the respondent.

Copies of this decision shall be served upon the parties.

[Redacted]

Shirley Danice
Respondent

[Redacted]

Mike Whitfield
Respondent

[Redacted]

N.B. Hutchinson, Jr.
Respondent

[Redacted]

Pete Pingrey
Respondent

[Redacted]

Don A. McGraw, Jr.
Montgomery McGraw, PLLC
Attorney for Respondents

[Redacted]

Krishna G. Ramaraju
Attorney for Complainant

Done at Washington, D.C.

this 22nd day of November, 2011

[Redacted Signature]

PETER M. DAVENPORT
Administrative Law Judge

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