

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:)	P & S Docket No. 12-0546
)	
Plainville Livestock Commission, Inc.,)	
)	
and)	
)	
Tyler Gillum,)	
)	
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 Plainville Livestock Commission, Inc. and Tyler Gillum willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 et seq.). 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

(a) Respondent Plainville Livestock Commission, Inc. is a corporation organized under the laws of the State of Kansas, with a mailing address of P.O. Box 356, Plainville, KS 67663.

(b) Respondent Tyler Gillum is an individual whose business mailing address is P.O. Box 356, Plainville, KS 67663.

(c) Respondent Plainville Livestock Commission, Inc. under the direction, management, and control of respondent Tyler Gillum, at all times material herein was:

(1) Engaged in the business of conducting and operating Plainville Livestock Commission Inc., a stockyard posted under and subject to the provisions of the Act;

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

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

(d) Respondent Tyler Gillum at all times material herein was:

(1) President of respondent Plainville Livestock Commission, Inc.;

(2) Owner of 100% of the stock issued by respondent Plainville Livestock Commission, Inc.; and

(3) Responsible for the direction, management and control of respondent Plainville Livestock Commission, Inc.

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, their agents and employees, directly or through any corporate or other device, in connection with their activities subject to the Act, shall cease and desist from:


- (1) Failing to maintain their "Custodial Account for Shippers' Proceeds" in conformity with the provisions of section 201.42 of the regulations (9 C.F.R. § 201.42);
- (2) Failing to deposit in their "Custodial Account for Shippers' Proceeds" within the times prescribed by 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; and
- (3) Using funds received from the sale of consigned livestock for the payment of bank fees, or for any purpose other than payment to consignors of the amount due from the sale of their livestock and the payment of lawful marketing charges.


Respondents shall maintain accounts, records and memoranda as fully and correctly disclose all transactions involved in their business, as required by section 401 of the Act (7 U.S.C. § 221), including, but not limited to, copies of balance sheets for their custodial account, copies of account reconciliations for their general account, copies of account reconciliations for their custodial account, livestock inventory records and accounts receivable records.


In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), respondents are assessed, jointly and severally, a civil penalty in the amount of twelve-thousand and nine-hundred dollars (\$12,900.00). Six thousand four-hundred and fifty dollars (\$6,450) of this amount will be payable immediately upon entry of this consent decision and order. The remaining balance of six thousand four-hundred and fifty dollars (\$6,450) shall be payable on or before ninety days after the effective date of this order, and shall be mailed to the following address: USDA, GIPSA, P.O. Box 790335, St. Louis, MO, 63179-0335.

This Order shall have the same force and effect as if entered after a 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 respondents.

Copies of this decision shall be served upon the parties.



Tyler Gillum, Respondent,
on behalf of himself and on behalf of
Blairsville Historical Commission, Inc.

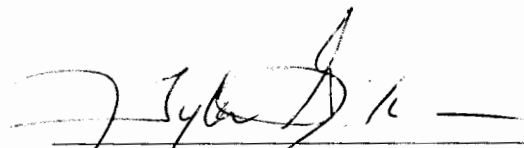

Gregory A. Schwartz
Glassman, Bird, Schwartz, and Park L.L.P.
Attorney for Respondents


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Attorney for Complainant

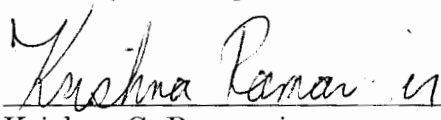
Done at Washington, D.C.

this ____ day of _____, 2012


Peter M. Davenport
Chief Administrative Law Judge

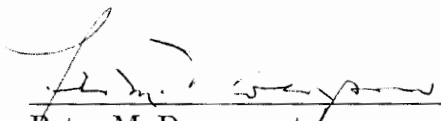

Tyler Gillum, Respondent,
on behalf of himself and on behalf of
Plainville Livestock Commission, Inc.
Respondents

Gregory A. Schwartz
Glassman, Bird, Schwartz, and Park L.L.P.
Attorney for Respondents


Krishna G. Ramaraju
Attorney for Complainant

Done at Washington, D.C.

this 7th day of October, 2012


Peter M. Davenport
Chief Administrative Law Judge