

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	P & S Docket No. 13-0086
)	
Clint Sicking, d/b/a Flying C Cattle)	
Company,)	
)	
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.) (Act), by a Complaint filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that Clint Sicking, d/b/a Flying C Cattle Company, willfully violated the Act and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. §§ 201.1 et seq.) (Regulations). This consent decision is entered pursuant to the consent decision provision of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.138).

Clint Sicking, d/b/a Flying C Cattle Company 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 consent decision.

Complainant agrees to the entry of this consent decision.

Findings of Fact

1. Clint Sicking, d/b/a Flying C Cattle Company (Respondent) is an individual whose mailing address is in the State of Texas. The address will not be stated in this consent decision to protect the privacy of Respondent, however, the address has already been provided to

the Hearing Clerk's Office, United States Department of Agriculture.

2. At all times material to the Complaint, Respondent was:
 - (a) Engaged in the business of a dealer buying and selling livestock in commerce for his own account;
 - (b) Not registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for his own account; and
 - (c) Operating subject to the Act within the jurisdiction of the Secretary of Agriculture.

Conclusion

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

Order

Respondent Clint Sicking, d/b/a Flying C Cattle Company, his agents and employees, directly or through any corporate or other device, in connection with his operations subject to the Act, shall cease and desist from:

1. Engaging in business in any capacity for which bonding is required under the Act and the Regulations, without filing and maintaining an adequate bond or its equivalent, as required by the Act and the Regulations, and without first becoming properly registered under the Act;
2. Issuing checks in purported payment of livestock purchases without having and maintaining sufficient funds on deposit and available in the account upon which such checks are drawn to pay such checks when presented;
3. Failing to pay, when due, the full purchase price of livestock; and

4. Failing to pay the full purchase price for livestock purchases.

Respondent Clint Sicking, d/b/a Flying C Cattle Company, is prohibited from being registered to engage in any activities for which registration is required under the Act for a period of 5 years. Provided, however, that at any time after the expiration of the initial 30 days of this prohibition period, upon application to the Packers and Stockyards Program, a supplemental order may be issued terminating the registration prohibition and permitting Respondent's registration under the Act if Respondent meets the following conditions: (1) Respondent demonstrates to the satisfaction of the Packers and Stockyards Program that Mallicote, Inc., d/b/a Cattleman's Livestock Commission Co., Paris, Texas (Mallicote), has been paid, in full, \$59,362.22; and (2) Respondent submits an adequate bond or bond equivalent to the Packers and Stockyards Program.

Pursuant to section 303 of the Act (7 U.S.C. § 203), Respondent is prohibited from engaging in business in any capacity for which registration is required under the Act without properly registering with the Packers and Stockyards Program.

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondent is assessed a civil penalty in the amount of Sixty-Five Thousand Dollars (\$65,000.00). Provided, however, the civil penalty will become due and payable 365 days after the date this Order is entered. At Respondent's option, the civil penalty amount will be offset dollar-for-dollar by restitution payments to Mallicote. For example, if Respondent makes Ten Thousand Dollars (\$10,000.00) in restitution payments to Mallicote before the 365-day period expires, then the civil penalty amount will be reduced to Fifty-Five Thousand Dollars (\$55,000.00).

The civil penalty payment and proof of restitution payments shall be sent to S. Brett Offutt, Director, Policy and Litigation Division, Packers and Stockyards Program at the

following address: 1400 Independence Ave. SW., Room-2507 South Building, Washington, DC 20250-3646. Proof of restitution payments may include, but is not limited to, the following: (1) a statement from the bank holding an account created by Respondent to pay Mallicote; or (2) an affidavit or declaration from Respondent or an administrator tasked with managing payments to Mallicote. Any such statement, affidavit, or declaration should indicate the payment type, check numbers (if paid by check), the payment amounts, and the dates that each payment was made. In its sole discretion, the Packers and Stockyards Program may verify any offsetting restitution payments claimed by Respondent.

This Order shall have the same force and effect as if entered after full hearing. The provisions of this Order shall become effective upon issuance.

Copies of this consent decision and Order shall be served upon the parties.

Done at Washington, D.C.

this 11th day of January, 2013

[Redacted Signature]

Administrative Law Judge

[Redacted Signature]

Clint Sicking, d/b/a Flying C Cattle Company
Respondent

[Redacted Signature]

Lean C. Battaglioli
Attorney for Complainant