



UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P&S Docket Nos. 13-0313 and 13-0314
)
)
Larry M. Lindsey and ,)
Lindsey Cattle Company, Inc.,)
)
)
Respondents) Consent Decision and Order

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, U.S. Department of Agriculture (complainant), alleging that the respondents willfully violated the Act and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.). This decision and order is entered pursuant to section 1.138 of the rules of practice that are 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 proceeding only, to the entry of this decision and order.

The complainant agrees to the entry of this decision and order.

Findings of Fact

1. Respondent Lindsey Cattle Company, Inc. (respondent corporation), at all times material to the complaint was a corporation organized and existing under the laws of the State of

Florida, with a business operating address of 4019 SW County Road 232, Bell, Florida 32619 and a mailing address of P.O. Box 1479, Trenton, Florida 32693. At all times material to the complaint, respondent corporation was

(a) engaged in the business of a market agency buying livestock in commerce on a commission basis and

(b) registered with the Secretary of Agriculture as a dealer and market agency buying livestock in commerce on a commission basis.

2. Respondent Larry M. Lindsey (respondent Lindsey) is, and at all times material was, an individual with a business operating address of 4019 SW County Road 232, Bell, Florida 32619 and a mailing address of P.O. Box 1479, Trenton, Florida 32693. At all times material to the complaint, respondent Lindsey was

(a) the President and sole owner of respondent corporation and

(b) responsible for the day-to-day direction, management, and control of respondent corporation.

3. Respondent corporation's bond terminated on June 14, 2012, and its registration expired on October 19, 2012.

4. Respondent Lindsey became registered with the Secretary of Agriculture as a market agency buying livestock in commerce on a commission basis and as a clearee of Oak Lake Cattle Company, Incorporated, of Okeechobee, Florida, on March 4, 2013.

Conclusion

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

Order

Respondents Lindsey Cattle Company, Inc., and Larry M. Lindsey, their agents and employees, directly or indirectly through any corporate or other device, in connection with their operations subject to the Packers and Stockyards Act, shall cease and desist from failing to pay the full amount of the purchase price for livestock and failing to pay for livestock before the close of the next business day following each purchase of livestock, as required by sections 202(a) and 409 of the Act (7 U.S.C. §§ 192(a) and 228b).

Respondent Lindsey Cattle Company, Inc., is prohibited from applying for registration under the Act and operating in any capacity that is subject to the Act and regulations for one (1) year from the effective date of this order, after which said prohibition may be terminated if, near the end of the prohibition period, the company sends a written request to complainant requesting termination of the same and it demonstrates full compliance with the Act by (1) filing an application for registration with the Secretary, (2) filing a new bond or bond equivalent in its corporate name in an amount that complainant's Eastern Regional Office will determine is sufficient to cover the corporation's planned activities under the Act at the time of said filing, and (3) providing proof that it is solvent (e.g., that its current assets exceed its current liabilities). Termination of this prohibition will be subject to complainant's verification that respondent Lindsey Cattle Company, Inc., complied with the terms and conditions of the prohibition and has demonstrated compliance with the Act and regulations as set forth above.


Respondent Larry M. Lindsey's registration with the Secretary is suspended for thirty (30) days from the effective date of this order, during which time respondent Lindsey shall not operate in any capacity that is subject to the Act and regulations. At the end of thirty (30) days, respondent Lindsey's suspension may be lifted if, near the end of the thirty (30) day period, he

sends a written request to complainant requesting that it be lifted and he demonstrates full compliance with the Act by (1) timely filing an annual report or providing other written proof that his current registration with the Secretary is still active, (2) providing a written statement from the president, owner, or equivalent officer of his clearing agency stating that said agency is willing to continue clearing his livestock purchases; and (3) providing proof that he is personally solvent (e.g., that his current assets exceed his current liabilities). The lifting of respondent Lindsey's suspension will be subject to complainant's verification that he complied with the terms and conditions of the suspension and has demonstrated compliance with the Act and regulations as set forth above.


In the alternative, respondent Lindsey may, near the end of the thirty (30) days, send a written request to complainant requesting that he be allowed to work as an employee of another registrant or packer. This request shall be accompanied by signed correspondence on the registrant's or packer's letterhead or similar documentation stating that the registrant or packer has hired respondent Lindsey to work solely as its employee and that the registrant or packer agrees to take full responsibility for all of respondent Lindsey's actions that are within the scope of said employment and subject to the Act. Complainant's grant of respondent Lindsey's request to work as an employee of another registrant or packer will be subject to complainant's verification of his employment status with the registrant or packer and complainant's research of the registrant's or packer's history of compliance with the Act and regulations.

The provisions of this order shall become effective on the sixth day after service of this consent decision and order on the respondents.

Copies of this decision and order shall be served on the parties.



Larry M. Lindsey / individually
President and owner of respondent Lindsey Cattle Company, Inc.


Ray E. Thomas, Jr., Esq.
Counsel for respondents Lindsey Cattle Company, Inc., and Larry M. Lindsey


Thomas N. Bolick, Esq.
Counsel for complainant

Done at Washington, D.C.,

this 10th day of May, 2014


Administrative Law Judge

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