



UNITED STATES DEPARTMENT OF AGRICULTURE
 BEFORE THE SECRETARY OF AGRICULTURE

In re:) P & S Docket No. 14-0150
)
)
 Donnie Miller,)
)
)
 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 (GIPSA), United States Department of Agriculture, alleging that Respondent Donnie Miller 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).

Respondent Donnie Miller 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 procedurc, 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. Donnie Miller is an individual whose mailing address is in the State of Mississippi. The address will not be stated in this Consent Decision to protect the privacy of Mr. Miller, but the address was provided to the Hearing Clerk's Office, United States Department of Agriculture.

2. Respondent Donnie Miller is, and at all times material to the Complaint was:

- (a) Engaged in the business of a dealer buying and selling livestock in commerce for his own account or for the account of others;
- (b) Engaged in the business of a market agency buying livestock in commerce on a commission basis;
- (c) Not registered with the Secretary of Agriculture as a dealer buying and selling livestock in commerce for his own account or for the account of others or as a market agency buying livestock in commerce on a commission basis;¹ and
- (d) Operating subject to the Act and the Regulations within the jurisdiction of the Secretary.

Conclusion

Respondent Donnie Miller 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 Donnie Miller, 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 any act, practice, or course of business for the purpose of obtaining

¹ Respondent submitted an application for registration as a dealer, which was received by the Eastern Regional Office of the Packers and Stockyards Program on September 24, 2012. Respondent's application was accepted and became effective as of October 11, 2012.

money from the purchasers of livestock based on fictitious or deceptive information, including, but not limited to, marking up livestock prices without authorization and collecting undisclosed profits based on the marked up prices beyond authorized commissions;

2. Generating or causing to be generated false or misleading records in connection with his activities subject to the Act, including, but not limited to:

- (a) Purchase invoices that listed livestock as being purchased under false names;
- (b) Purchase invoices that misrepresented that livestock had been resold at the market where the livestock had been purchased earlier the same day;
- (c) Purchase invoices that listed purchase prices for livestock that were higher than the actual purchase prices;
- (d) Purchase invoices that listed fabricated prices for livestock; and
- (e) Purchase invoices that listed fabricated weights for livestock.

3. Failing to operate in compliance with section 201.44 of the Regulations (9 C.F.R. § 201.44), including, but not limited to, failing to transmit or deliver to the purchaser of livestock a true written account of the purchase;

4. Failing to operate in compliance with section 201.53 of the Regulations (9 C.F.R. § 201.53), including, but not limited to, making, issuing, or circulating any false or misleading record concerning the prices or sale of livestock;

5. Failing to operate in compliance with section 201.55 of the Regulations (9 C.F.R. § 201.55), including, but not limited to, failing to base the payment of livestock on the actual weight of the livestock.

Respondent Donnie Miller shall keep and maintain accounts, records, and memoranda, which fully and correctly disclose the true nature of all transactions involved in his business

subject to the Act as required by section 401 of the Act (7 U.S.C. § 221), including, but not limited to, purchase invoices which completely and accurately reflect the true nature of the transactions.

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondent Donnie Miller is assessed a civil penalty in the amount of Twenty-Two Thousand Dollars (\$22,000.00) to be paid in accordance with the provisions of the Understanding With Respect to Civil Penalty entered into by the parties.

This Order shall have the same force and effect as if entered after full hearing. The provisions of this Order shall become effective on the sixth day after service of this Consent Decision and Order on Respondent Donnie Miller.

Copies of this Consent Decision and Order shall be served upon the parties.

Done at Washington, D.C.

this 14 day of JULY, 2014

[Redacted signature]

Administrative Law Judge

Jill S. Clifton

[Redacted signature]

Donnie Miller
Respondent

[Redacted signature]

Leah C. Battaglioli
Attorney for Complainant