

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
)
Hatch Auction, Inc.,) P&S-D Docket No. **19-J-0079**
d.b.a. Cow House,)
)
Respondent.)

**Order Modifying Consent Decision
Issued November 21, 2019**

Appearances:

Charles L. Kendall, Esq., with the Office of the General Counsel, United States Department of Agriculture, 1400 Independence Avenue SW, Washington, DC, for the Complainant, the Deputy Administrator, Fair Trade Practices Program, Agricultural Marketing Service, United States Department of Agriculture (“AMS” or Complainant); and

Seth V. Bingham, Esq., and William T. Denning, Esq., with Miller Stratvert P.A., Farmington, NM 87499, for the Respondent, Hatch Auction, Inc., also operating as Cow House (“Hatch Auction” or Respondent).

1. AMS filed Complainant’s Motion to Modify Order on June 14, 2021, stating that “Respondent Hatch Auction has demonstrated that the shortages in the Custodial Account for Shippers’ Proceeds have been eliminated, and Complainant deems Respondent Hatch Auction to have satisfied the terms of the Understanding in regard to the civil penalty.” Therefore, Complainant respectfully requests that the Chief Administrative Law Judge amend the Order in this case to reflect that no suspension nor civil penalty are currently in effect.”
2. The Order is contained in the Consent Decision and Order issued on November 21,

2019, by Chief Administrative Law Judge Channing D. Strother.¹ The Consent Decision and Order provided, *inter alia*:

Order

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

1. Failing to deposit in the Custodial Account for Shippers' Proceeds, within the times prescribed in 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
2. Failing to otherwise maintain the Custodial Account for Shippers' Proceeds in strict conformity with the Act and the provisions of section 201.42 of the regulations (9 C.F.R. § 201.42).

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondents jointly and severally are assessed a civil penalty in the amount of twenty thousand dollars (\$20,000.00).

In accordance with 7 U.S.C. § 204, the registrations of Respondents Hatch Auction and Raymond Hatch are suspended for a period of fifty (50) days and thereafter until Respondent Hatch Auction demonstrates that the shortages in the Custodial Account for Shippers' Proceeds have been eliminated. The suspension and the payment of the civil penalty will be applied in accordance with a separate Understanding entered into by the parties. Pursuant to § 303 of the Act (7 U.S.C § 203), Respondents are prohibited from engaging in any operation subject to the Packers and Stockyards Act while their registrations are suspended.

In accordance with section 401 of the Act (7 U.S.C. § 221) Respondents will keep and maintain records that fully and correctly disclose all transactions involved in their business subject to the Act.

Consent Decision at 3-4.

¹ This proceeding initiated with a Complaint filed against two respondents: Hatch Auction, Inc., d.b.a. Cow House (Docket No. 19-J-0079); and Raymond L. Hatch (Docket No. 19-J-0080). The Consent Decision and Order related to both respondents. Upon being informed that Raymond L. Hatch is now deceased, I, Judge Jill S. Clifton, filed an order dismissing Mr. Hatch from this proceeding and removing his name from the case caption.

3. Complainant's Motion to Modify Order filed on June 14, 2021 is GRANTED.
4. The Order of the Consent Decision and Order issued on November 21, 2019, is MODIFIED to state the following:

Order

Respondent Hatch Auction, its agents and employees, directly and through any corporate or other device, in connection with its operations subject to the Act, shall cease and desist from:

1. Failing to deposit in the Custodial Account for Shippers' Proceeds, within the times prescribed in 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
2. Failing to otherwise maintain the Custodial Account for Shippers' Proceeds in strict conformity with the Act and the provisions of section 201.42 of the regulations (9 C.F.R. § 201.42).

In accordance with section 401 of the Act (7 U.S.C. § 221) Respondent will keep and maintain records that fully and correctly disclose all transactions involved in its business subject to the Act.

Copies of this "Order Modifying Consent Decision Issued November 21, 2019" shall be sent by the Hearing Clerk to each of the parties.

Issued at Washington, D.C. this 16th day of June 2021


Digitally signed by JILL CLIFTON
Date: 2021.06.16 14:58:17 -04'00'
Jill S. Clifton
Administrative Law Judge

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