

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

USDA
OALJ/OHC

2016 MAY 26 AM 11:30

RECEIVED

In re:) P & S Docket No. 16-0013
) 16-0014
Superior Canadian Livestock) 16-0015
Auction, Ltd., Barbara Bezan and)
Layton Bezan,)
)
Respondents) CONSENT DECISION

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 (GIPSA), United States Department of Agriculture, alleging that the respondents willfully violated the Act and the regulations issued thereunder (9 C.F.R. § 201.1 *et seq.*). This decision is entered pursuant to the consent decision provisions 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, wave 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

1. Superior Canadian Livestock Auction, Ltd., hereinafter referred to as respondent business, is a business entity located at SW 31-20-19-W2M in Regina, Saskatchewan S4P3C6 (Canada).

2. Barbara and Layton Bezan, hereinafter referred to as respondent owners, are co-owners of respondent business with a mailing address of P.O. Box 1726, Regina, SK S4P3C6 (Canada).

3. Respondents at all times material herein were:

(a) Engaged in the business of a dealer buying and selling livestock in commerce for their own account and the accounts of others.

(b) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for its' own account and the account of others.

Conclusions

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

Order

(1) Respondents, their agents and employees, successors and assigns, directly or indirectly through any corporate or other device shall cease and desist from:

(a) Failing to pay for livestock purchases the full amount of the purchase price of such livestock within the time period required by 7 U.S.C §§ 213(a) and 228b and section 201.43 of the regulations (9 C.F.R. § 201.43).

(b) Issuing checks in payment for livestock purchases without having and maintaining sufficient funds on deposit and available in the accounts upon which they are drawn to pay such checks when presented (Sections 312(a) and 409) (7 U.S.C. §§ 213(a) and 228b).

(c) Violating any provisions of the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*).

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), respondents are assessed a civil penalty of ten thousand dollars (\$10,000.00). The civil penalty shall be held in abeyance provided that respondents comply with the cease and desist provisions set forth above and the payments as set forth below. The ten thousand dollar (\$10,000.00) civil penalty held in abeyance will be set aside upon successful compliance with the terms of this Order. If Respondents have not paid Bernard Trumm and Jason Glenn, d/b/a Western Feeders, in full by May 1, 2018, the civil penalty shall issue.

(2) Respondents shall make the following payments:

(a) Respondents shall pay Bernard Trumm the amount of twenty thousand four hundred ninety dollars and twenty cents (\$20,490.20) in United States dollars within 30 days from the effective date of this Order. Respondents shall provide written proof of payment to Brett Offutt, Director, Litigation and Economic Analysis Division, Packers and Stockyards Program, GIPSA, at 1400 Independence Ave. S.W., Room 2507, STOP-3601, Washington, D.C. 20250-3601. Proof of payment must include, but is not limited to, the following: (1) a copy of a cancelled check(s) or proof of wire transfer along with a copy of the bank statement(s) showing funds were debited from the account for the full amount of the funds owed or (2) an affidavit or declaration from Mr. Trumm stating he received the payment, type of payment, check numbers (if paid by check), the payment amount and the dates that the payment was made.

(b) Respondents shall pay Jason Glenn, d/b/a Western Feeders, a total of forty thousand nine hundred seventy one dollars and thirty-nine cents (\$40,971.39) in United States dollars. Respondents shall make the first payment

of ten thousand dollars (\$10,000.00) on or before October 1, 2016, and make additional payments of ten thousand dollars (\$10,000.00) on or before April 1, 2017, and on or before October 1, 2017. The balance of the payment shall be made by April 1, 2018. Respondents shall provide proof of full payment as outlined in paragraph (2)(a).


(3) If respondents fail to make payments in accordance with (2)(a) and (2)(b) of this Order, respondents' registration as dealers will be immediately suspended and continue until such time the unpaid sellers have been paid in full.

(4) Respondents are suspended under the Act for a period of forty-five (45) days. The 45 day suspension shall begin on May 1, 2018, after all unpaid livestock sellers have been paid in full in accordance with the payment plan in paragraphs (2)(a) and (2)(b) of this Order.

This Consent Decision and Order is the complete agreement between Complainant and Respondents and does not include the "Settlement and Release of Claims and Confidentiality Agreement" between Respondents and any other party.

The provisions of this order shall become effective on the sixth day after service.

Copies of this decision shall be served upon the parties.

By 
Superior Canadian Livestock Auction, Ltd.
Respondent


Date: May 25, 2016


Barbara Bezan, Respondent Owner

Date: May 25, 2016


Layton Bezan, Respondent Owner

Date: May 25, 2016


Lee Legleiter, Attorney for Respondents

Date: 5-25-16

[Redacted]

Tracey Manoff
Attorney for Complainant

Date: May 26, 2016

Issued in Washington, D.C.

This 26 day of MAY, 2016

[Redacted]

Administrative Law Judge

Jill S. Clifton