

J. Link  
Alan C.  
USDA  
OALJ/OHC  
MAR 17 AM 10:29  
RECEIVED

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) P. & S. Docket No. D-08-0013  
)  
) Gary W. Jones, d/b/a Big Spring )  
) Livestock Auction )  
) 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.; hereinafter "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 (hereinafter "Complainant"), alleging that Respondent willfully violated the Act and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.; hereinafter "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 Statues (7 C.F.R. § 1.138; hereinafter "Rules of Practice").

Gary W. Jones, d/b/a Big Spring Livestock Auction, 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. Gary W. Jones, d/b/a Big Spring Livestock Auction, specifically agrees to the waiver of any further hearing or procedure in this matter.

Complainant agrees to the entry of this consent decision.

cc: Barrett

### Findings of Fact

1. Gary W. Jones, d/b/a Big Spring Livestock Auction (hereinafter "Respondent"), is an individual whose mailing address is P.O. Box 102, Big Spring, Texas 79721.
2. Respondent, at all times material to the Complaint, was:
  - (a) Engaged in the business of conducting and operating Big Spring Livestock Auction, a posted stockyard, subject to the provisions of the Act;
  - (b) Engaged in the business of a market agency selling livestock in commerce on a commission basis at Big Spring Livestock Auction; and
  - (c) Registered with the Secretary of Agriculture as a market agency to sell livestock in commerce on a commission basis and to furnish stockyard services.

### Conclusion

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 Gary W. Jones, d/b/a Big Spring Livestock Auction, as an individual, and 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. Failing to deposit in the Custodial Account for Shippers' Proceeds, within the time prescribed by section 201.42(c) of the regulations (9 C.F.R. § 201.42(c)), amounts equal to the proceeds receivable from the sale of consigned livestock;

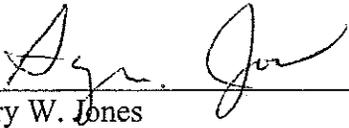
2. Failing to otherwise maintain the Custodial Account for Shippers' Proceeds in strict conformity with the provisions of section 201.42 of the regulations (9 C.F.R. § 201.42); and

3. Misusing the Custodial Account for Shippers' Proceeds by withdrawing funds for a purpose other than for (1) payment of the net proceeds to the consignor or shipper, or to any person that the market agency knows is entitled to payment, (2) to pay lawful charges against the consignment of livestock which the market agency shall, in its capacity as agent, be required to pay, or (3) to obtain any sums due the market agency as compensation for its services.

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 Ten Thousand Dollars (\$10,000.00) 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 final and effective on the sixth (6th) day after service upon Respondent.

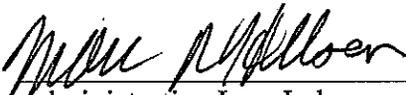
Copies of this consent decision and order shall be served upon the parties.

  
\_\_\_\_\_  
Gary W. Jones  
Respondent

  
\_\_\_\_\_  
Leah C. Battaglioli  
Attorney for Complainant

Issued in Washington, D.C.

this 17<sup>th</sup> day of March, 2008

  
\_\_\_\_\_  
Administrative Law Judge