UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	P & S Docket No. D-12-0361
	)	
J. Cuiksa, Inc.,	)	
	)	
and	)	
	)	
Jason Cuiksa	)	
	)	
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 promulgated thereunder (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 Statues (7 C.F.R. § 1.138) (Rules of Practice).

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 purpose only, to the entry of this consent decision.

Complainant agrees to the entry of this consent decision.

Findings of Fact

(1) Respondent J. Cuiksa, Inc. is a corporation organized and existing under the laws of the State of Kansas. The corporation's last known business mailing address, on file the Secretary of State of Kansas, is 811 N Main Street, South Hutchinson, Kansas 67505. Respondent J. Cuiksa, Inc.'s agent for service of process, on file with the Secretary of State of Kansas, is Jason Cuiksa, 811 N Main Street, South Hutchinson, Kansas 67505.

(2) Respondent J. Cuiksa, Inc., under the direction, management, and control of respondent Jason Cuiksa, at all times material to the allegations herein was:

(a) Engaged in the business of a market agency selling livestock in commerce on a commission basis; and

(b) Registered with the Secretary of Agriculture as a market agency to sell livestock in commerce on a commission basis.

(3) Respondent Jason Cuiksa is an individual and his mailing address is in the State of Kansas. In order to protect the personal privacy of respondent Jason Cuiksa his address is not included in this Decision but has been provided to the Hearing Clerk for purpose of effectuating service of process. Respondent Jason Cuiksa, at all times material to the allegations herein was, the owner, president, vice-president, secretary, treasurer, and manager of respondent J. Cuiksa, Inc., and responsible for the day-to-day direction, management and control of respondent J. Cuiksa, Inc.

(4) On July 25, 2011, respondents stated that they had discontinued livestock operations, and the entity's registration was made inactive.

Conclusion

Respondent J. Cuiksa, Inc. and respondent Jason Cuiksa having admitted the jurisdictional facts, paragraphs 1-4 set forth immediately above, and the parties having agreed to the entry of this consent decision, with the explicit understanding that

respondents are not admitting or denying all other paragraphs and facts set forth in the complaint, the consent decision will be entered.

Order

Respondent J. Cuiksa, Inc. and respondent Jason Cuiksa, their agents and employees, directly or through any corporate or other device, in connection with their operations subject to the Act and regulations, shall cease and desist from:

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

2. Failing to fully reimburse the custodial account within the times prescribed in section 201.42 of the regulations (9 C.F.R. § 201.42); and

3. Failing to otherwise maintain the custodial account in strict conformity with the provisions of section 201.42 of the regulations (9 C.F.R. § 201.42).

Respondent J. Cuiksa, Inc. and respondent Jason Cuiksa, their agents and employees, shall keep such accounts, records, and memoranda that fully and correctly disclose all transactions involved in their business as packer as required by section 401 of the Act (7 U.S.C. § 221), including, but not limited to, an outstanding check listing, a current balance sheet, income statements, check register, accounts receivable listing, sales invoices and buyer recaps, bank statements, and all bank notices regarding its custodial account.

Respondents shall not be registered to engage in any business subject to the Act for a period of eight (8) years. Pursuant to Section 303 of the Act (7 U.S.C. § 203), Respondents are prohibited from operating as a market agency or dealer without being registered with the Secretary of Agriculture and without maintaining an adequate bond or bond equivalent.

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

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

Done at Washington, D.C.

this 26 day of July, 2012

[redacted]

Administrative Law Judge

Jill S. Clifton

J. Cuiksa, Inc., Respondent, defunct

By: [redacted]

Title: President

[redacted]

Jason Cuiksa
Respondent

[redacted]

Troy Gott
Attorney for Respondents

[redacted]

Ciarra A. Toomey
Attorney for Complainant