

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) P & S Docket No. 13-0057
)
Monty Witt,)
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.*) (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 respondent 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 Respondent 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 decision.

The complainant agrees to the entry of this decision.

Findings of Fact

1. Monty Witt, hereinafter referred to as the Respondent, is an individual with a mailing address of P.O. Box 591, Falls City, NE 68355.
2. Respondent is, and at all times material herein, was:
 - (a) Engaged in the business of a dealer buying and selling livestock in commerce and as a market agency buying livestock in commerce on a commission basis; and

(b) Registered with the Secretary of Agriculture as a livestock dealer to buy and sell livestock in commerce and, since May 18, 2011, also registered with the Secretary of Agriculture as a market agency to buy livestock in commerce on a commission basis.

Conclusions

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

Order

The Respondent, his agents and employees, directly or through any corporate or other device, in connection with activities subject to the Act, shall cease and desist from:

1. Generating or causing to be generated, false or misleading records in connection with his activities subject to the Act, including, but not limited to purchase invoices that list purchase prices for livestock that are different than the actual purchase prices; and
2. Failing to provide to the purchaser of livestock a true and accurate written account of all livestock purchases, as required by sections 312(a) of the Act and section 201.44 of the regulations (9 C.F.R. § 201.44).

The Respondent, his agents and employees, directly or through any corporate or other device, in connection with activities subject to the Act, 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).

In accordance with section 312(b) of the Act (7 U.S.C. § 213 (b)), Respondent is assessed a civil penalty of eight thousand and five hundred dollars (\$8,500.00). Respondent shall send a certified check or money order for one thousand and five hundred dollars (\$1,500.00), payable to

the Treasurer of the United States, along with this signed Consent Decision and Order, to: Attn: Lauren Axley, OGC, United States Department of Agriculture, Rm. 2319 – South Building, 1400 Independence Ave., SW, Washington, DC 20250. The certified check or money order should include the docket number of this proceeding, P&S Docket No. 13-0057.

The remaining seven thousand dollars (\$7,000.00) shall be paid in seven monthly installments of one thousand dollars (\$1,000.00) each. The first installment shall be due on or before September 1, 2013, and the remaining six (6) installments shall be due on or before the first day of each month thereafter until the civil penalty is paid in full. Each monthly installment shall be paid by a certified check or money order made payable to the Treasurer of the United States, and shall be mailed to:

USDA GIPSA
P.O. Box 790335
St. Louis, Missouri 63179-0335.

Each certified check or money order should include the docket number of this proceeding.

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

Copies of this decision shall be served upon the parties.

Issued in Washington, D.C.

This 4th day of August, 2013

Janice K Bullard
Administrative Law Judge

JANICE K. BULLARD

Monty Witt
Monty Witt
Respondent

Steven J. Mercure
Mr. Steven J. Mercure, Esq.
Attorney for Respondent

Lauren Axley
Lauren Axley
Attorney for Complainant