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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:

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Beeville Livestock Commission, Inc.
and W.E. Butler

P & S Docket No. D-05-0004

Respondents

Consent Decision

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 *et seq.*), hereinafter referred to as the Act, by a complaint filed by the Deputy Administrator, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that the Respondents wilfully violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 *et seq.*), hereinafter referred to as the regulations. This decision is entered pursuant to the consent decision provision 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, 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 decision.

The Complainant agrees to the entry of this decision.

Findings of Fact

1. Beeville Livestock Commission, Inc., hereinafter "Respondent Beeville", is a corporation organized and existing under the laws of the state of Texas. Its mailing address is P.O. Box 697, Beeville, Texas 78104.

2. Respondent Beeville at all times material herein, was:

(a) Engaged in the business of conducting and operating the Beeville Livestock Commission, Inc. stockyard, a posted stockyard subject to the provisions of the Act; and

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

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

3. W.E. Butler, hereinafter referred to as Respondent Butler, is an individual whose business mailing address is P.O. Box 697, Beeville, Texas 78104.

4. Respondent Butler is and at all times material herein was:

(a) President of Respondent Beeville;

(b) Manager of Respondent Beeville;

(c) One hundred percent shareholder of Respondent Beeville for the year 1999; and Forty Eight and three quarters percent (48.75%) shareholder of Respondent Beeville for the year 2000;

(d) Responsible for the management, direction, and control of Respondent Beeville.

Conclusions

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

Order

Respondent Beeville and Respondent Butler, their agents and employees, directly or indirectly through any corporate or other device, in connection with their operations subject to the Packers and Stockyards Act, shall cease and desist from:

1. Failing to deposit in the Custodial Account, within the time prescribed by section 201.42 of the regulations (9 C.F.R. § 201.42), an amount equal to the proceeds receivable from the sale of consigned livestock;

2. Misusing the Custodial Account in any way proscribed by the Act and regulations, including committing unlawful withdrawals from the account and transferring money from the custodial account to the General Account; and withdrawing market commissions and fees while the account is in a negative position (shortage).

The provisions of this order shall become effective on the sixth (6th) day after service of this order on Respondents.

Copies of this decision shall be served upon the parties.

For Respondents:

1) Beeville Livestock Commission, Inc.

2) W.E. Butler

By: 



Title: Owner

W.E. Butler

For Complainant:



Rubén D. Rudolph Jr.
Attorney for Complainant

Issued in Washington D.C.
this 2 day of August 2006



Administrative Law Judge
Jill S. Clifton