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UNITED STATES DEPARTMENT OF AGRICULTURE MAY 21 PM 4:03

BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	P. & S. Docket No. D-08-0086
Fortner Livestock, Inc., and	)	
Otis Lewis Fortner	)	
	)	
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.; 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. 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").

Fortner Livestock, Inc., and Otis Lewis Fortner, 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. Fortner Livestock, Inc. (hereinafter "Corporate Respondent"), is a corporation organized and existing under the laws of the State of Georgia, whose mailing address was P.O. Box 189, Kite, Georgia 31049. Corporate Respondent's current mailing address is through its registered agent, Otis Lewis Fortner, II, P.O. Box 189, Kite, Georgia 31049.

2. Corporate Respondent at all times material to the Complaint was:

- (a) Engaged in the business of buying and selling livestock in commerce as a dealer for its own account;
- (b) Engaged in the business of a market agency buying livestock in commerce on a commission basis; and
- (c) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for its own account and as a market agency to buy livestock in commerce on a commission basis.

3. Otis Lewis Fortner (hereinafter "Individual Respondent"), is an individual whose mailing address is P.O. Box 189, Kite, Georgia 31049.

4. Individual Respondent at all times material to the Complaint was:

- (a) President and a director of Corporate Respondent;
- (b) One-hundred percent shareholder of Corporate Respondent; and
- (c) Responsible for the day-to-day management, direction, and control of Corporate Respondent.

Conclusion

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

Order

Respondents Fortner Livestock, Inc., and Otis Lewis Fortner, their agents and employees, directly or through any corporate or other device, in connection with Respondents' operations subject to the Act, shall cease and desist from:

1. Failing to pay, when due, for livestock purchases;
2. Failing to pay the full purchase price for livestock purchases; and
3. Issuing checks in purported payment of livestock purchases without having and maintaining sufficient funds on deposit and available in the account upon which such checks are drawn to pay such checks when presented.

Respondents are hereby suspended as registrants under the Act for a period of 5 years pursuant to 7 U.S.C. § 204.

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 upon issuance.

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

Issued in Washington, D.C.

this 22 day of May, 2008

[Redacted signature]

Administrative Law Judge

Jill S. Clifton

Fortner Livestock, Inc.  
Respondent,

By: [Redacted signature]

Title: pres

[Redacted signature]

Otis Lewis Fortner  
Respondent

[Redacted signature]

Leah C. Battaglioli  
Attorney for Complainant