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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	
	)	
Mount Airy Stockyard, Inc.,	)	Docket No. 16-0100 (P & S)
	)	
Venancio Torres, and	)	Docket No 16-0101 (P & S)
	)	
	)	
Deborah Torres,	)	Docket No. 16-0102 (P & S)
	)	
	)	Decision Without Hearing by
Respondents.	)	Reason of Consent

This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*), hereinafter referred to as the "Act," and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 *et seq.*), hereinafter referred to as the "regulations" by a Complaint and Notice of Hearing filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that respondent willfully violated the Act and the regulations. 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 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) The Respondent, Mount Airy Stockyard, Inc. is a corporation organized under the laws of the State of North Carolina, with its principal place of business located at 2344 Turkey Ford Road, Mount Airy, North Carolina 27030.

(2) The registered agent for service of process listed on the North Carolina Secretary of State website for the corporate Respondent is Deborah Torres.

(3) Respondent Mount Airy Stockyard, Inc. was suspended from operations by the North Carolina Secretary of State on or about August 1, 2014.

(4) At all times material herein, the Respondent Mount Airy Stockyards, Inc., was under the direction, management, and control of Respondent Venancio Torres, President, and Respondent Deborah Torres, Vice President/Secretary/Treasurer.

(5) Unless otherwise specified, at all times material herein the Respondent Mount Airy Stockyards, Inc. was:

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

(b) Registered with the Secretary of Agriculture as a market agency selling livestock on commission until its registration expired August 29, 2014[1]; and

(c) Engaged in the business of conducting and operating a stockyard posted under and subject to the provisions of the Act;

(6) The Respondent Venancio Torres is an individual whose business mailing address is 2344 Turkey Ford Road, Mount Airy, North Carolina 27030.

(7) At all times material herein, the Respondent Venancio Torres was:

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[1] Although Mount Airy Stockyard, Inc.'s registration actually expired August 29, 2014, it did not receive notice from GIPSA that it must cease operations until October 10, 2014.

(a) Engaged in the business of a market agency as that term is defined and used in the Act and the regulations promulgated thereunder;

(b) Engaged in the business of conducting and operating a stockyard posted under and subject to the provisions of the Act.

(c) President and fifty percent (50%) owner of respondent Mount Airy Stockyard, Inc.; and

(d) Responsible for the day-to-day direction, management and control of respondent Mount Airy Stockyard, Inc. including the acts and practices referred to in this complaint.

(8) The Respondent Deborah Torres is an individual whose business mailing address is 2344 Turkey Ford Road, Mount Airy, North Carolina 27030.

(9) At all times material herein, the Respondent Deborah Torres was:

(a) Engaged in the business of a market agency as that term is defined and used in the Act and the regulations promulgated thereunder;

(b) Engaged in the business of conducting and operating a stockyard posted under and subject to the provisions of the Act.

(c) Vice President, Secretary, Treasurer and fifty percent (50%) owner of respondent Mount Airy Stockyard, Inc.; and

(d) Responsible for the day-to-day direction, management and control of respondent Mount Airy Stockyard, Inc. including the acts and practices referred to in this complaint.

(10) As of February 10, 2015, Respondent Mount Airy Stockyard, Inc. had ceased all operations, and as of February 12, 2015, its trust fund agreement terminated.

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

Respondents Mount Airy Stockyard, Inc., Venancio Torres, and Deborah Torres, their agents and employees, directly or indirectly through any corporate or other device, shall cease and desist from: (1) Failing to timely remit proceeds to consignors; (2) Failing to properly maintain and use their custodial account; and (3) issuing insufficient funds checks.

In accordance with section 312(b) of the Act (7 U.S.C. §213(b)), the respondents are further assessed, jointly and severally, a civil penalty of fifteen thousand dollars ($15,000.00). Six thousand dollars ($6,000) shall be immediately due and payable. The remaining nine thousand dollars ($9,000) of the civil penalty shall be held in abeyance for a period of one year from the effective date of this Consent Decision. If the Respondents fail to comply with any of the terms of this consent decision during the period of abeyance, the full civil penalty shall be reinstated and any remaining balance of the civil penalty will become immediately due and payable. This Consent Decision, however, will not limit the civil penalties for any violations of the Act not addressed in the allegations of the complaint in this matter. Respondent expressly waives any further appearance or procedure with respect to action in this case.

Respondents are also prohibited from operating in any capacity requiring registration under the Act for a period of one hundred and thirty-five (135) days and thereafter until they demonstrate full compliance with the Act and the implementing regulations. After expiration of the initial one hundred and thirty-five (135) day period, provided respondents demonstrate full compliance with the Act and the implementing regulations, upon application to the Packers and Stockyards

Program, a supplemental order may be issued in this proceeding terminating the prohibition.

This Order shall have the same force and effect as if entered after full hearing. The provisions of this order shall become effective on the sixth day after service of this consent decision and order on the respondents.

Copies of this decision shall be served upon the parties.

Respondent Mount Airy Stockyards, Inc.

By [redacted]
VENANCIO TORRES, President

[redacted]
VENANCIO TORRES Respondent

[redacted]
DEBORAH TORRES
Respondent

[redacted]
DARLENE M. BOLINGER
Attorney for Complainant

Done at Washington, D.C.
this 18th day of August, 2016

[redacted]
BOBBIE J. MCCARTNEY
Chief Administrative Law Judge