

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

USDA  
CALJ/HCO

In re: ) P. & S. Docket No. D-00-0001  
)  
) 2001 JUL 17 P 4: 28  
Woodburn Livestock Market, Inc., )  
Robert J. Babcock, II and Sharon K. )  
Babcock, ) RECEIVED  
) Decision and Order Without Hearing  
Respondents ) by 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"), by a complaint filed by the Administrator, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that Respondents have willfully violated the Act and the regulations issued thereunder (9 C.F.R. § 201.1 et seq.) (hereinafter referred to as 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).

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.

Complainant agrees to the entry of this decision.

Findings of Fact

1. Respondent Woodburn Livestock Market, Inc. (hereinafter, "the corporate Respondent"), is a corporation whose business mailing address is P.O. Box 602, Woodburn, Oregon 97071.
2. The corporate Respondent was at all times material herein:
  - (a) A posted stockyard subject to the provisions of the Act;

(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 selling livestock on a commission basis.

3. The corporate Respondent is not currently in operation.

4. Respondent Robert J. Babcock, II, is an individual whose business mailing address is P.O. Box 602, Woodburn, Oregon 97071.

5. Respondent Robert J. Babcock, II, was at all times material herein:

(a) President and 34 percent shareholder of the corporate Respondent; and

(b) Along with Respondent Sharon K. Babcock, responsible for the direction, management and control of the corporate Respondent.

6. Respondent Sharon K. Babcock is an individual whose business mailing address is P.O. Box 602, Woodburn, Oregon 97071.

7. Respondent Sharon K. Babcock was at all times material herein:

(a) Secretary/treasurer and 33 percent shareholder of the corporate Respondent; and

(b) Along with Respondent Robert J. Babcock, II, responsible for the direction, management and control of the corporate Respondent.

#### Conclusions

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

Order

Respondent Woodburn Livestock Market, Inc., its officers, directors, agents, employees, successors and assigns, and Respondents Robert J. Babcock, II and Sharon K. Babcock, individually or through any corporate or other device, in connection with their operations subject to the Act, shall cease and desist from:

1. Failing to deposit in the corporate Respondent's "Custodial Account for Shippers' Proceeds" 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. Failing to maintain the corporate respondent's "Custodial Account for Shippers' Proceeds" in conformity with the provisions of section 201.42 of the regulations (9 C.F.R. § 201.42);
3. Using custodial funds for purposes of their own or for any purpose other than the remittance of net proceeds to the person or persons entitled thereto and the payment of lawful marketing charges;
4. Issuing insufficient funds checks to consignors in purported payment of net proceeds of livestock sold on a commission basis;
5. Failing to remit, when due, the net proceeds due from the sale of livestock on a commission basis; and
6. Engaging in business subject to the Act while insolvent, i.e., while current liabilities exceed current assets.

The corporate Respondent shall keep and maintain accounts, records and memoranda which fully and correctly disclose all transactions conducted subject to the Packers and Stockyards Act, including, but not limited to, a current ledger balance of its accounts receivables.

The registration of the corporate Respondent is suspended until the shortage in its custodial account has been eliminated and it has demonstrated that it is no longer insolvent.

Pursuant to section 312(b) of the Act (7 U.S.C. § 213(b)), Respondents are assessed a civil penalty, jointly and severally, in the amount of Two Thousand Dollars (\$2,000.00). The provisions of this order shall become effective on the sixth day after service of this order on Respondents.

Copies of this decision shall be served upon the parties.

Woodburn Livestock Market PNC  
Woodburn Livestock Market, Inc.

Robert J. Babcock, II  
Robert J. Babcock, II

Sharon K. Babcock  
Sharon K. Babcock  
Respondents

G. Lance Salladay, Esq. 7/9/01  
Attorney for Respondents

Andrew Y. Stanton  
Attorney for Complainant

Issued this 17 day of

July, 2001

Jill A. Clitz  
Administrative Law Judge