

Gandy

received
MAY 16 2008

MAY 13 2008 1:19

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:

Springfield Livestock Marketing
Center, L.L.C.,

Respondent

P&S Docket No. D-07-0167

Decision Without Hearing by
Reason of Consent

Preliminary Statement

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.) (“Act”), by a Complaint filed August 7, 2007, by the Deputy Administrator, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that the Respondent willfully violated the Act and Regulations promulgated thereunder (9 C.F.R. § 201.1 et seq.) (“Regulations”). This decision is entered pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes applicable to this proceeding (7 C.F.R. § 1.138).

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.

Complainant agrees to the entry of this decision.

Findings of Fact

1. Springfield Livestock Marketing Center, L.L.C., (“Respondent”) is a limited liability company organized and existing under the laws of Missouri, whose business address is 6821 West Independence, Springfield, MO 65802.
2. Respondent, at all times material to this complaint was:
 - a. Engaged in the business of a posted stockyard subject to the provisions of the Act;
 - b. Engaged in the business of a market agency selling livestock in commerce on a commission basis for the accounts of others;
 - c. Registered with the Secretary of Agriculture as a market agency to sell livestock on a commission basis; and
 - d. Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce.
3. From February 2006 to December 2007, Respondent operated a livestock scale that did not fully comply with the requirements of U.R. 2.7 of the National Institute of Standards and Technology Handbook 44, which are incorporated by reference into the Regulations (9 C.F.R. § 201.71), in that its gates were not mounted on the scale platform.
4. Respondent mounted the gates on the livestock scale platform in December 2007, and the scale gates currently meet the technical requirements of Handbook 44 and the Regulations.

Conclusions

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

Order

Respondent, its agents and employees, directly or through any corporate or other device, in connection with their activities subject to the Act, shall cease and desist from violating the Act and section 201.71 of the Regulations (9 C.F.R. Sec. 201.71) by failing to maintain and operate a livestock scale which conforms to the requirements set out in U.R. 2.7 of the General Code, Scale Code and Weights Code of the 1996 edition of National Institute of Standards and Technology Handbook 44, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," ("Handbook 44").

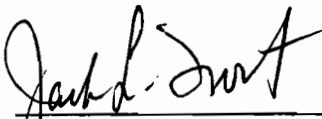
In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondent is assessed a civil penalty in the amount of five thousand five hundred dollars (\$5,500).

The provisions of this order shall become final and effective on issuance.

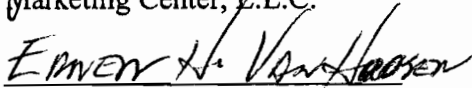
Copies of this decision shall be served upon the parties.

Done at Washington, D.C.

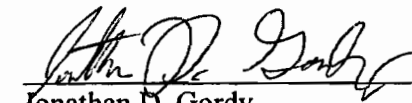
this 15th day of May, 2008



On behalf of Springfield Livestock
Marketing Center, L.L.C.



Ernest Van Hooser
Attorney for Respondent



Jonathan D. Gordy
Attorney for Complainant



Victor W. Palmer
Administrative Law Judge