

UNITED STATES
DEPARTMENT OF AGRICULTURE

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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	P&S Docket No. 12-0388
)	
Dwight G. Mebane,)	
)	
Respondent)	Consent Decision and Order

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. §§ 181 et seq.), by a complaint filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that respondent Dwight G. Mebane willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. §§ 201.1 et seq.). 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 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 and order.

The complainant agrees to the entry of this decision and order.

Findings of Fact

(a) Respondent Dwight G. Mebane, hereinafter referred to as respondent Mebane, is an individual whose current address is in the State of California. His address will not be stated in the decision and order to protect respondent Mebane's privacy but will be provided to the Hearing Clerk, United States Department of Agriculture, for the purpose of service of this decision and order.

(B) Respondent Mebane at all times material herein was:

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

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

(3) Registered with the Secretary of Agriculture as a market agency to buy and sell livestock in commerce on a commission basis, and as a dealer to buy and sell livestock in commerce.

Conclusions

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

Order

Respondent Dwight G. Mebane, his agents and employees, directly or indirectly through any corporate or other device, shall cease and desist from:

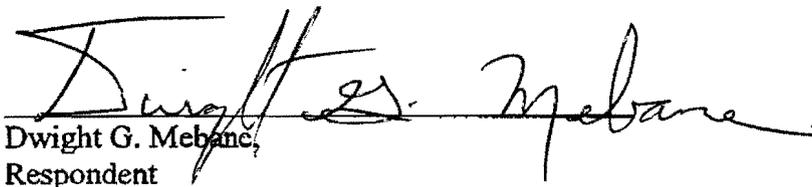
1. Issuing checks in payment of the net proceeds resulting from the sale of livestock on a commission basis without having and maintaining sufficient funds on deposit in the bank account upon which they are drawn to pay the checks when presented;

2. Failing to remit to consignors, when due, the net proceeds due from the sale of their livestock sold on a commission basis;
3. Failing to deposit in a 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 received from sales of consigned livestock; and
4. Failing to otherwise maintain a Custodial Account for Shippers' Proceeds in strict conformity with the provisions of section 201.42 of the regulations (9 C.F.R. § 201.42).

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), respondent Mebane is assessed a civil penalty in the amount of five thousand dollars (\$5,000.00). Respondent Mebane shall send a certified check or money order for five thousand dollars (\$5,000.00), payable to the Treasurer of the United States, to the U.S. Department of Agriculture, Room 2319 South Building, 14th and Independence Avenue, S.W., Washington, D.C. 20250-1400, along with this signed consent decision and order. The certified check or money order should include the docket number of this proceeding, P&S Docket No. 12-0388.

The provisions of this order shall become effective on the sixth day after service of this decision and order on the respondent.

Copies of this decision shall be served upon the parties.


Dwight G. Mebane,
Respondent

Thomas N. Bolick

Thomas N. Bolick
Attorney for Complainant

Done at Washington, D.C.

this 10th day of May, 2012

L. J. Thompson
Administrative Law Judge