

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

REC'D - USDA/OALJ/DHC
2019 AUG 28 PM1:59

In re:)	
)	
Westminster Livestock Auction & Auction Services, LLC,)	P&S Docket No. D-19-J-0138
)	
and)	
)	
Victoria Gouker,)	P&S Docket No. D-19-J-0139
)	
and)	
)	
Earl Gouker,)	P&S Docket No. D-19-J-0140
)	
Respondents)	Consent Decision and Order

This proceeding was instituted under the Packers and Stockyards Act ("Act"), 7 U.S.C. §§ 181 *et seq.*, by a Complaint filed by the Deputy Administrator, United States Department of Agriculture, Agricultural Marketing Service, Fair Trade Practices Program, Packers and Stockyards Division, alleging that Respondents Westminster Livestock Auction & Auction Services, LLC and Respondents Victoria and Earl Gouker willfully violated the Act and the regulations promulgated thereunder (regulations at 9 C.F.R. §§ 201.1 *et seq.*). This Decision and Order is entered pursuant to the consent decision provision 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; waive all rights to seek judicial

review and otherwise challenge or contest the validity of this decision, including waiving challenges to the Administrative Law Judge's authority to enter this Decision and Order under the Administrative Procedure Act and the Constitution of the United States, and waive any action against the United States Department of Agriculture under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 *et seq.*) for fees and other expenses incurred by Respondents in connection with this proceeding or any action against any USDA employee in their individual capacity. The parties consent and agree, for the purpose of settling this proceeding and for such purpose only, to the entry of this Decision.

Findings of Fact

- (a) Westminster Livestock Auction & Auction Services, LLC, (Respondent Westminster) is a limited liability company, whose business mailing address is 1117 Old New Windsor Pike, Westminster, Maryland 21157.
- (b) Respondent Westminster is, and at all times material herein, was:
- (1) Engaged in the business of, and operating as, a stockyard posted under and subject to the provisions of the Act; and
 - (2) Engaged in the business of a market agency, selling consigned livestock in commerce on a commission basis;
 - (3) Registered with the Secretary of Agriculture as a market agency selling livestock in commerce on a commission basis.
- (c) Victoria Gouker is an individual whose current address is in the [REDACTED]

[REDACTED] Her address will not be stated in this complaint to protect Respondent Victoria Gouker's privacy but will be provided to the Hearing Clerk, United States Department of

Agriculture, for the purpose of this complaint.

(d) Respondent Victoria Gouker is, and at all times material herein, was:

(1) 50% owner of Westminster Livestock Auction & Auction Services, LLC;

(2) Responsible for the day-to-day direction, management, and control of

Respondent Westminster;

(3) Engaged in the business of, and operating as, a stockyard posted under and subject to the provisions of the Act;

(4) Engaged in the business of a market agency selling consigned livestock in commerce on a commission basis.

(e) Earl Gouker is an individual whose current address is in the [REDACTED]

His address will not be stated in this complaint to protect Respondent Earl Gouker's privacy but will be provided to the Hearing Clerk, United States Department of Agriculture, for the purpose of this complaint.

(f) Respondent Earl Gouker is, and at all times material herein, was:

(1) 50% owner of Westminster Livestock Auction & Auction Services, LLC;

(2) Responsible for the day-to-day direction, management, and control of

Respondent Westminster;

(3) Engaged in the business of, and operating as, a stockyard posted under and subject to the provisions of the Act;

(4) Engaged in the business of a market agency selling consigned livestock in commerce on a commission basis.

Conclusions

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

Order

Respondents Westminster Livestock Auction & Auction Services, LLC, Victoria Gouker, and Earl Gouker and their agents, employees, successors and assigns, directly or indirectly or through any corporate or other device, in connection with Respondents' activities subject to the Packers and Stockyards Act, shall cease and desist from:

- (1) Issuing custodial account checks without having sufficient funds on deposit and available in the Custodial Account for Shippers' Proceeds upon which the checks are drawn to pay the checks when presented for payment; and
- (2) Failing to remit, when due, the proceeds of livestock sales to consignors in strict conformity with section 201.43 of the Regulations (9 C.F.R. § 201.43).

Respondents Westminster Livestock Auction & Auction Services, LLC, Victoria Gouker, and Earl Gouker, are suspended as registrants under the Act and suspended from operating as registrants under the Act for a period of five years and thereafter until Respondents remit full payments to livestock sellers, and until their current assets are equal to or exceeds current liabilities.

This Consent Decision and Order is not to be construed as in any way limiting the authority of the Packers and Stockyards Division to investigate and monitor Respondents' activities that are subject to the Act to assure the Respondents' compliance with the Act and Regulations during the period of suspension or at any other time as authorized by the Act and

Regulations. This Consent Decision and 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 on the sixth (6th) day after service of this Consent Decision and Order on Respondents.

Copies of this decision shall be served upon the parties forthwith.

[Redacted]

Westminster Livestock Auction & Auction Services, LLC.
Respondent

[Redacted]

Victoria Gouker
Respondent

[Redacted]

Earl Gouker
Respondent

CHRISTOPH
ER YOUNG [Redacted]

Christopher Young
Attorney for Complainant

Done at Washington, D. C. this

28th day of August, 2019

[Redacted]

Chief Administrative Law Judge
Channing D. Strother