

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) P. & S. Docket No. D-08-0142  
)  
)  
McAndrews Livestock Company, Inc., )  
and John McAndrews, )  
)  
Respondents )  
) Decision Without Hearing  
) By Reason of Consent  
)

Decision

This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.), hereinafter the “Act,” 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 Respondents have willfully violated the Act. 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 (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) McAndrews Livestock Company, Inc. (hereinafter referred to as "Corporate Respondent") is a corporation formed under the laws of the State of Iowa with a mailing address of 23942 HWY 52, Garnavillo, Iowa 52001.
- 2) The Corporate Respondent at all times material herein was:
  - a. engaged in business as a dealer in commerce, buying and selling livestock for its own account; and
  - b. registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for its own account.
- 3) Mr. John McAndrews, (hereinafter referred to as "Respondent McAndrews") is an individual whose business mailing address is 23942 HWY 52, Garnavillo, Iowa 52001.
- 4) Respondent McAndrews is and at all times material herein was:
  - a. President of the Corporate Respondent;
  - b. Manager of the Corporate Respondent;
  - c. One-hundred percent shareholder of the Corporate Respondent; and
  - d. Responsible for the day-to-day management, direction, and control of the Corporate Respondent.
- 5) Respondent McAndrews is the *alter ego* of the Corporate Respondent.

### Conclusions

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

### Order

- 1) Corporate Respondent, its owners, officers, agents and employees, successors and assigns, and Respondent McAndrews, either as an agent, officer or employee of the Corporate Respondent or in his individual capacity, shall cease or desist from:
  - a. Issuing checks in payment for livestock without having sufficient funds on deposit and available in the account upon which the checks are drawn to pay the checks when presented.
  - b. Failing to pay the full purchase price for livestock.
  - c. Failing to pay, when due, the full purchase price for livestock.
  - d. Operating in any capacity under the Act while its current liabilities exceed its current assets.
  
- 2) Respondent shall be suspended as a registrant under the Act for 5 years, with the following provisos.
  - a. During the first 60-days Respondent is allowed salaried employment by another registrant or packer in the limited capacity of helping out in the yards, working on trucks and performing related maintenance tasks. Respondent may not, in any capacity, buy or sell livestock, nor may Respondent have any customer contact during the initial 60 days of the suspension.
  - b. After the expiration of the initial 60-days of the suspension term, Respondent may be a salaried employee of another registrant or packer for a period of three years.
  - c. Respondent may apply to the Packers and Stockyards Program for a supplemental order terminating the suspension at any time after the expiration of the initial


three-years upon demonstration to the Packers and Stockyards Program, GIPSA by Respondent that all unpaid livestock sellers identified in the Complaint have been paid in full.


- d. If Respondent has not fully paid the livestock sellers identified in the Complaint after the expiration of the three-year period, Respondent may not work in the industry for the remaining year and 10 months of the suspension term. During those two years, Respondent could return to the industry upon proof to the Packers and Stockyards Program, GIPSA of full restitution to unpaid sellers.

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

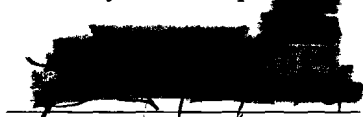
Copies of this decision shall be served upon the parties

Issued this 6<sup>th</sup> day of October, 2009

  
Peter M. Davenport  
Administrative Law Judge

  
Ciarra A. Toomey, Esq.  
Attorney for Complainant

10/6/09  
Date

  
Brian J. Kane, Esq.  
Attorney for Respondent

10/5/09  
Date