

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:

Ernest R. Gard d/b/a Gard Cattle
Company

Respondent

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P & S Docket No. D-17-0009

CONSENT DECISION

This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*) (“the Act”), by a Complaint filed on November 14, 2016 by the Deputy Administrator of the Grain Inspection, Packers and Stockyards Administration (GIPSA), of the United States Department of Agriculture (“Complainant”), alleging that Respondent Ernest R. Gard d/b/a Gard Cattle Co. willfully violated the Act. This Consent Decision is entered pursuant to the consent decision provision of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 *et seq.*) (“Rules of Practice”).

Respondent admits the jurisdictional allegations in paragraph I of the Complaint and specifically admits that the Secretary of the United States Department of Agriculture has jurisdiction in this matter; neither admits nor denies the remaining allegations; waives oral hearing and further procedure, including all rights to seek judicial review and otherwise challenge or contest the validity of this decision; 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. Ernest R. Gard ("Respondent"), is an individual with a business mailing address of P.O. Box 1451, New Mexico 88102.
2. At all times material herein, the Respondent was:
 - a. Engaged in the business of buying and selling livestock in commerce as a dealer for his own account;
 - b. Registered with the Secretary of Agriculture as an individual dealer to buy and sell livestock in commerce, and;
 - c. Doing business as Gard Cattle Company.

Conclusion

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

ORDER

Respondent Ernest R. Gard d/b/a Gard Cattle Co., his agents and employees, directly or through any corporate or other device, in connection with his operations subject to the Act, shall cease and desist from purchasing livestock and failing to pay, when due, the full purchase price of livestock, as required by section 409 of the Act (7 U.S.C. § 228b) and section 201.43 of the regulations (9 C.F.R. § 201.43).

Pursuant to section 312(b) of the Act (7 U.S.C. § 213(b)), the Respondent is hereby assessed a civil penalty in the amount of two thousand seven hundred dollars (\$2,700). A single payment of \$2,700 must be made in accordance with the following:

1. Payment must be made by **certified check** or **money order**, must include the docket number of this proceeding, **P&S Docket No. D-17-0009**, and be payable to the **"Treasurer of the United States."**
2. Payment of the full amount of the civil penalty shall be due immediately and sent, with a signed copy of this Consent to:

Elizabeth M. Kruman
Office of the General Counsel
U.S. Department of Agriculture, Room 2336-A, South Building
1400 Independence Avenue, SW.
Washington, D.C. 20250

Respondent Ernest R. Gard d/b/a Gard Cattle Co., his agents and employees, directly or through any corporate or other device, in connection with his operations subject to the Act, is suspended as a dealer as defined by the Act for a period of sixty (60) days from the effective date of this Consent Decision.

Pursuant to section 401 of the Act, (7 U.S.C. § 221), Respondent Ernest R. Gard d/b/a Gard Cattle Co., his agents and employees, directly or through any corporate or other device, is ordered to maintain complete and accurate records that fully and accurately disclose all transactions.

This Order shall have the same force and effect as if entered after full hearing. The provisions of this Order shall become effective upon issuance (7 C.F.R. § 1.138).

Copies of this Consent Decision shall be served upon the parties.

Issued this 13th day of March, 2017,
in Washington, D.C.

[REDACTED]

ADMINISTRATIVE LAW JUDGE

Channing D. Strother

[REDACTED]

ELIZABETH M. KRUMAN
Attorney for Complainant

[REDACTED]

ERNEST R. GARD d/b/a GARD CATTLE
COMPANY
Respondent

[REDACTED]

[REDACTED]

WESLEY O. POOL
Attorney for Respondent