

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:) P & S Docket No. D-05-0010
))
Choate's Stockyard, Inc., and)
Garry E. Richerson,)
))
Respondents) Decision Without Hearing by
) Reason of Consent

RECEIVED

This proceeding was instituted under the Packers and Stockyards Act (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 Respondent has willfully violated the Act. This 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, hereinafter the "Rules of Practice." See 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. Choate's Stockyard, Inc. was a corporation whose business mailing address was P.O. Box 249, Sonora, Kentucky 42776.
2. Choate's Stockyard, Inc., at all times material herein, was:

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

(b) Engaged in the business of a dealer buying and selling livestock for its own account and for the accounts of others in commerce;

(c) Registered with the Secretary of Agriculture as a market agency buying and selling on a commission basis;

(d) Registered with the Secretary of Agriculture as a dealer buying and selling livestock.

3. Garry E. Richerson, hereinafter referred to as Respondent Richerson, is an individual whose mailing address is 825 Raywick Road, Lebanon, Kentucky 40033.

4. Respondent Richerson, at all times material to the Complaint, was:

(a) President of Choate's Stockyard, Inc.

(b) Owner of fifty percent of the stock of Choate's Stockyard, Inc.

(c) Responsible for the direction, management, and control of Choate's Stockyard, Inc.

(d) The alter ego of Choate's Stockyard, Inc.

Conclusions

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

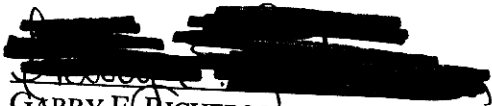
Order


Respondent Garry E. Richerson, his agents and employees, directly or through any corporate or other device, in connection with his activities subject to the Packers and Stockyards Act, shall cease and desist from:

1. Failing to properly maintain a Custodial Account For Shippers Proceeds, as required by Section 201.42 of the regulations (9 C.F.R. §201.42), while operating as a market agency selling livestock on a commission basis;
2. Failing to remit the full amount of net proceeds due from the sale of livestock within the time period required by Section 201.43 of the regulations (9 C.F.R. §201.43), in connection with operations as a market agency selling livestock on a commission basis; and
3. Issuing checks for which there are insufficient funds on deposit and available in the account upon which the checks are drawn to pay the checks when presented.


The provisions of this Order shall become effective on the sixth (6th) day after service upon Respondent Richerson.

Copies of this Decision and Order shall be served upon the parties.


 GARRY E. RICHERSON
 Respondent


 GARY F. BALL
 Attorney for Complainant

Issued in Washington D.C.
 this 13th day of February 2007


 ADMINISTRATIVE LAW JUDGE
 PETER M. DAVENPORT