

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

100-000000
100-000000
100-000000

In re:) P. & S. Docket No. D-08-0087
Kelly Cattle Co., Inc., d/b/a Wright)
County Livestock Auction,)
Respondent) Decision Without Hearing
) by Reason of Consent

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, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that the Respondent wilfully violated the Act and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 *et seq.*). This decision is entered pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (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. Kelly Cattle Co., Inc., referred to herein as “Respondent”, is a Missouri corporation doing business as Wright County Livestock Auction, whose principal place of business is at 9871 East 20th Street, Mountain Grove, Missouri, and whose business mailing address is P.O. Box 785, Mountain Grove, MO 65711.

2. Respondent is and at all times material herein was:
 - (a). Engaged in the business of conducting and operating Wright County Livestock Auction, a posted stockyard located in Mountain Grove, Missouri, subject to the provisions of the P&S Act;
 - (b). Engaged in the business of a market agency selling livestock on a commission basis; and
 - (c). Registered with the Secretary of Agriculture as a market agency to sell livestock on a commission basis.

Conclusions

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

Order

Respondent Kelly Cattle Co., Inc., its officers, directors, agents and employees, successors and assigns, doing business as Wright County Livestock Auction, or through any corporate or other device, in connection with its operations as a market agency selling on commission, shall cease and desist from:

1. Failing to deposit in the custodial account within the time prescribed in the regulations an amount equal to the proceeds receivable due from the sale of consigned livestock to Respondent and others; and
2. Failing to maintain the custodial account in strict conformity with the provisions of section 201.42 of the regulations (9 C.F.R. §201.42).


In accordance with section 212(b) of the Act (7 U.S.C. § 213(b)), Respondent is assessed

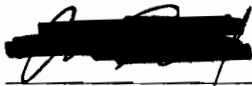
a civil penalty in the amount of \$10,000.00.

The provisions of this Order shall become effective on the sixth day after service of this order on the Respondent.

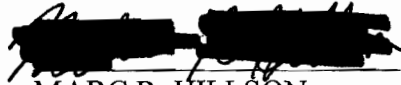
Copies of this decision shall be served upon the parties.

KELLY CATTLE CO., INC.

By 
NATHAN KELLY
President


ERIC PAUL
Attorney for Complainant

Issued this ^{4th} day of ^{August} ~~July~~, 2008


MARC R. HILLSON
Chief Administrative Law Judge