

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:) P. & S. Docket No. D-07-0086
)
Southwest Livestock Exchange, Inc.)
)
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.*), by a Complaint filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that the Respondent willfully 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 provision of the Rules of Practice applicable to this proceeding (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.

The Complainant agrees to the entry of this decision.

Findings of Fact

1. Southwest Livestock Exchange, Inc., hereinafter referred to as the Respondent, is a corporation incorporated under the laws of the State of Texas. Respondent's address is Highway 90 West, Box 1456, Uvalde, Texas 78802-1456.

2. Respondent, at all times material herein, was:
- (a) Engaged in the business of conducting and operating a posted stockyard subject to the provisions of the Act;
 - (b) Engaged in the business of a market agency selling and buying livestock in commerce on a commission basis;
 - (c) Registered with the Secretary of Agriculture as a market agency to sell and buy livestock in commerce on a commission basis.
 - (d) Engaged in the business of a dealer buying and selling livestock in commerce for its own account and for the account of others; and
 - (e) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce.

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 Southwest Livestock Exchange, Inc., its agents and employees, directly or through any corporate or other device, in connection with operations subject to the Packers and Stockyards Act, shall cease and desist from:

1. Failing to deposit in its Custodial Account for Shippers' Proceeds, within the time prescribed by section 201.42(c) of the regulations (9 C.F.R. § 201.42(c)), amounts equal to the proceeds receivable from the sale of consigned livestock; and


2. Failing to maintain its Custodial Account for Shippers' Proceeds in strict conformity with the provisions of Section 201.42 of the regulations (9 C.F.R. § 201.42).


In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondent Southwest Livestock Exchange, Inc. is assessed a civil penalty in the amount of Four Thousand Dollars (\$4,000.00).


Southwest Livestock Exchange, Inc., in connection with its operations subject to the Act, shall keep and maintain such accounts, records, and memoranda as fully and correctly disclose its transactions subject to the Act and the regulations, including livestock purchase and sales invoices, contracts, credit agreements, journals, load make up sheets, scale tickets and trucking or freight records.

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

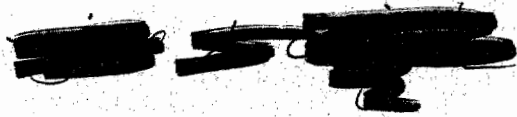
Copies of this decision shall be served upon the parties.


for Respondent
Southwest Livestock Exchange, Inc.


Gerard D. Eftink
Attorney for Respondent


Charles L. Kendall
Attorney for Complainant

Issued this 29 day of November 2007



Jill S. Clifton
Administrative Law Judge