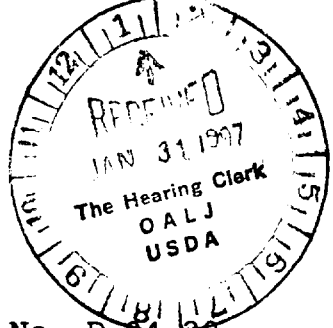


P&S



UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	P. & S. Docket No. D-94-20
Jackson Livestock	)	
Market, Inc., Thomas G. Olin	)	
and Rodney L. Kolander,	)	
	)	
Respondents	)	Decision as to Respondent
	)	Rodney L. Kolander

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.) by a complaint alleging that the respondents wilfully violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 et seq.). An amended complaint was filed by the Deputy Administrator, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, in order to add new and subsequent violations to those originally alleged. This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

Respondent Rodney L. Kolander admits the jurisdictional allegations in paragraph I of the complaint in this matter 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. Jackson Livestock Market, Inc., hereinafter referred to as the corporate respondent, is a corporation organized and existing under the laws of the state of Minnesota. The corporate respondent's business mailing address was P.O. Box 362, Jackson, Minnesota 56143.

2. The corporate respondent at all times material herein was:

(a) Engaged in the business of conducting and operating the Jackson Livestock Market, a posted stockyard under the Packers and Stockyards Act, hereinafter referred to as the stockyard;

(b) Engaged in the business of selling livestock in commerce on a commission basis at the stockyard;

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

(d) Registered with the Secretary of Agriculture as a market agency to buy and sell livestock in commerce on a commission basis and as a dealer to buy and sell livestock in commerce.

3. Rodney L. Kolander, hereinafter referred as respondent Kolander, is an individual whose address is Rt. 2, Jackson Minnesota 56413.

4. Respondent Kolander is, and at all times material herein was:

- (a) Vice-President of the corporate respondent;
- (b) Owner of 50 percent of the stock of the corporate respondent;
- (c) Responsible, in combination with respondent Thomas G. Olin, for the management, direction and control of the corporate respondent;
- (d) Subject to sanctions as an alter ego of the corporate respondent;
- (e) A market agency and dealer within the meaning of these terms under the Act and subject to the Act; and
- (f) Not individually registered with the Secretary of Agriculture as a market agency or dealer.

#### Conclusions

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

#### Order

Respondent Rodney L. Kolander, his agents and employees, directly or through any corporate or other device, in connection with respondent Rodney L. Kolander's operations subject to the Packers and Stockyards Act, shall cease and desist from:

1. Failing to deposit in the Custodial Account for Shippers' Proceeds within the time prescribed in Section 201.42 of the regulations (9 C.F.R. § 201.42) amounts equal to the outstanding proceeds receivable due from the sale of consigned livestock;

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

3. Reimbursing the custodial account for shippers' proceeds with checks drawn on any account without having and maintaining sufficient funds on deposit and available in the account upon which such checks are drawn to pay such checks when presented;

4. Using funds received as proceeds from the sale of livestock sold on a commission basis for purposes his own or for any purpose other than the payment of lawful marketing charges and the remittance of net proceeds to the consignors and shippers of livestock;

5. Issuing checks in payment for livestock purchases without having sufficient funds on deposit and available in the account upon which such checks are drawn to pay such checks when presented;

6. Issuing checks in payment of the net proceeds from the sale of consigned livestock without having sufficient funds on deposit and available in the custodial account upon which such checks are drawn to pay such checks when presented;

7. Exchanging or "kiting" checks with any person or between any accounts for the purpose or with the effect of concealing the true amount of funds available in any account, or of creating a false float or balance in any such account;

8. Failing to remit, when due, the net proceeds received from the sale of consigned livestock;

9. Failing to remit the net proceeds received from the sale of consigned livestock;

10. Failing to pay, when due, the full purchase price of livestock; and

11. Consigning livestock under false names and preparing accounts and records using false names.

Respondent Rodney L. Kolander shall keep and maintain accounts, records and memoranda which fully and correctly disclose all transactions involved in his business subject to the Packers and Stockyards Act including the following:

1. Check-in slips, scale tickets, clerk sheets, accounts of sale showing the true and correct names of livestock consignors; and

2. A purchase and sales journal identifying all livestock purchased and sold.

Respondent and Rodney L. Kolander, as an alter ego of respondent Jackson Livestock Market, Inc., is suspended as a registrant for a period of five (5) years. Provided, however, that upon application to Grain Inspection, Packers and Stockyards Administration, a supplemental order may be issued terminating respondent Rodney L. Kolander's suspension at any time after 90 days of this suspension term upon demonstration by respondent Rodney L. Kolander that all unpaid consignors have been paid the full net proceeds due for the sale of consigned livestock, and

provided further that this suspension may be modified upon application to Grain Inspection, Packers and Stockyards Administration, to permit the salaried employment of respondent Rodney L. Kolander by another registrant or packer after the expiration of the initial 90 days of this suspension term and upon demonstration of circumstances warranting modification of the order.

The provisions of this order shall become effective on the sixth day after service of this decision on respondent Rodney L. Kolander. Copies of this decision shall be served upon the parties.



\_\_\_\_\_  
RODNEY L. KOLANDER  
Respondent



\_\_\_\_\_  
ERIC PAUL  
Attorney for Complainant

Issued this 31 day of Jan 97



\_\_\_\_\_  
Administrative Law Judge