

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P. & S. Docket No. D-96-015
)
 Hopkins County Livestock)
 and Dairy Auction, Inc.,)
 Marvin Jones and E. Bob)
 Cody,)
)
 Respondents) Consent Decision with
) Respect to E. Bob Cody

Preliminary Statement

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. §181 et seq.) by a complaint filed on February 9, 1996 by the Acting Deputy Administrator, Packers and Stockyards Programs, GIPSA, United States Department of Agriculture, alleging that the respondents wilfully violated the Act and the regulations issued thereunder (9 C.F.R. §201.1 et seq.). 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, E. Bob Cody, 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 that purpose only, to the entry of this decision.

Findings of Fact

1. Respondent E. Bob Cody (respondent Cody) is an individual whose mailing address is 109 Winfield Drive, Sulphur Springs, Texas 75482.
2. Respondent Cody at all times material herein was:
 - a. Vice-President of Hopkins County Livestock and Dairy Auction, Inc. (Hopkins County);
 - b. Owner of 33% of the stock of Hopkins County; and
 - c. Responsible, in combination with Marvin Jones, for the direction, management, and control of the Hopkins County.

Conclusions

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

Order

Respondent E. Bob Cody, his agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from:


1. Failing to deposit in the Custodial Account for Shippers' Proceeds, within the times 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); and

3. Using funds received from the sale of consigned livestock for purposes of his own or for any purpose other than payment to consignors of the amount due from the sale of his livestock and the payment of lawful marketing charges.

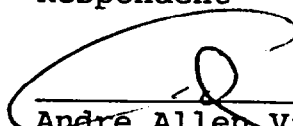
Respondent E. Bob Cody is suspended as a registrant under the Act for a period of seven (7) days and thereafter until it is demonstrated that the shortage in the Custodial Account for Shippers' Proceeds of Hopkins County Livestock and Dairy Auction, Inc. has been eliminated. When respondent Cody demonstrates that the custodial account deficiency has been eliminated, a supplemental order will be issued in this proceeding terminating this suspension.

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

Copies of this decision shall be served upon the parties.

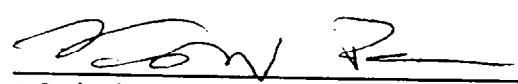


E. BOB CODY
Respondent



Andre Allen Vitale
Attorney for Complainant

Issued this 22nd day of May 1997



Administrative Law Judge