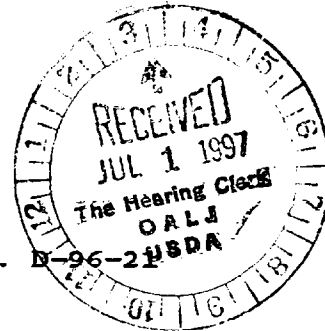


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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) P. & S. Docket No. D-96-218DA
)
James Whiten Livestock,)
Inc. and James P. Whiten,)
)
)
Respondents) Decision

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 Programs, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that the respondents wilfully violated the Act. 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).

The respondents admit the jurisdictional allegations in paragraph I of the complaint and specifically admit that the Secretary has jurisdiction in this matter, neither admit nor deny the remaining allegations, waive oral hearing and further procedure, and consent and agree, 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. James Whiten Livestock, Inc., hereinafter referred to as respondent Whiten Livestock, is a corporation organized and existing under the laws of the State of Georgia. Its business mailing address is P. O. Box 281, Toccoa, Georgia 30577.

2. Respondent Whiten Livestock is and at all times material herein was:

(a) Engaged in the business of buying livestock in commerce on a commission basis;

(b) Engaged in the business of buying and selling livestock for its own account; and

(c) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock on its own account and as a market agency.

3. James P. Whiten, hereinafter referred to as respondent Whiten, is an individual whose business mailing address is P. O. Box 281, Toccoa, Georgia 30577.

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

(a) President of respondent Whiten Livestock; and

(b) Owner of one hundred percent of the stock issued by respondent Whiten Livestock.

5. Respondent Whiten is:

(a) Responsible for the direction, management and control of respondent Whiten Livestock; and

(b) Engaged in the business of buying livestock in commerce on a commission basis and buying and selling livestock for his own account.

Conclusions

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

Order

Respondent Whiten Livestock and its alter ego, respondent James P. Whiten, their officers, directors, agents, employees, successors and assigns, directly or through any corporate or other device, in connection with their operations subject to the Act shall cease and desist from:

1. Failing to pay, when due, the full purchase price of livestock; and
2. Entering into a plan, scheme, or device to obtain livestock without paying the full purchase price for the purpose of asserting or claiming an offset to a debt owed by the seller.

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

Copies of this decision shall be served upon the parties.

WHITEN LIVESTOCK, INC.

BY James P. Whiten

President

Title

James P. Whiten
JAMES P. WHITEN
Respondent

Russell W. Smith
RUSSELL W. SMITH
Attorney for Respondent

Jane McCavitt
JANE MCCAIVITT
Attorney for Complainant

Issued this 1st day of July 1997

James Hunt
Administrative Law Judge