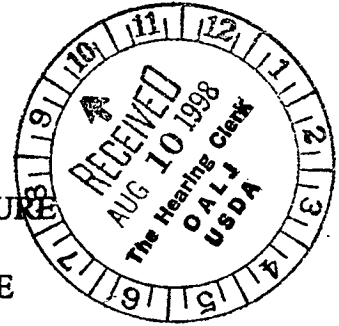


UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) P&S Dkt. No. D-96-0044
)
Gerald Palmer,)
) Decision Without Hearing
Respondent) by Reason of Consent

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. §181 *et seq.*), hereinafter the P&S Act, by a Complaint filed by the Acting Deputy Administrator, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that Respondent wilfully violated the P&S 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 Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary, hereinafter the Rules of Practice (7 C.F.R. §1.130 *et seq.*).

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 that purpose only, to the entry of this decision.

Complainant agrees to the entry of this decision.

Findings of Fact

1. Gerald Palmer, referred to herein as Respondent, is an individual whose mailing address is HWC 2, Box 19, Martin, South Dakota 57551
2. Respondent was at all times material herein:
 - a. Engaged in the business of a market agency buying livestock on a commission basis and the business of a dealer buying and selling livestock in commerce for his own account or the account of others; and
 - b. Registered with the Secretary of Agriculture as a market agency to buy livestock in commerce on a commission basis.

Conclusion

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

Order

Respondent, his agents and employees, directly or through any corporate or other device, in connection with his activities subject to the P&S Act, shall cease and desist from:

1. Engaging in business in any capacity for which bonding is required under the P&S Act, as amended and supplemented, and the regulations, without filing an adequate bond or its equivalent, as required by the P&S Act and the regulations;
2. Failing to pay the full purchase price of livestock;
3. Failing to pay, when due, the full purchase price of livestock; and

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4. Issuing checks in payment for livestock purchases without maintaining sufficient funds on deposit and available in the account upon which such checks were drawn to pay such checks when presented.

Respondent is suspended as a registrant under the P&S Act for five (5) years and thereafter until the Respondent is properly bonded. Provided, that upon application to Packers and Stockyards Programs, GIPSA, a supplemental order may be issued terminating the suspension of Respondent at any time after the initial 150 days, upon demonstration by Respondent that he has obtained an adequate bond or its equivalent and that all unpaid livestock sellers have been paid in full. Provided further, that this order may be modified upon application to the Packers and Stockyards Programs, GIPSA, to permit the salaried employment of Respondent by another registrant or packer after the expiration of the initial 150 days of the suspension term and upon demonstration of circumstances warranting modification of the order.

The provisions of this order shall become effective on the sixth (6th) day after service of this order on Respondent.

Copies of this decision shall be served upon the parties.



Gerald Palmer
Respondent



James P. Hurley
James P. Hurley
Attorney for Respondent

Andre Allen Vitale
Andre Allen Vitale
Attorney for Complainant

Issued this day 10th of August, 1998

Donna A. Baker
Administrative Law Judge

M.P.