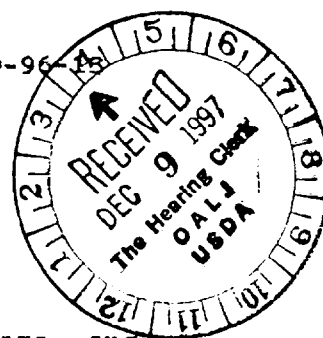


UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:) P. & S. Docket No. D-96-15
)
Smith Cattle Co., Inc.,)
Cris Henry Smith and)
Samuel D. Smith,)
)
)
)
)
Respondents) Decision



This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.), hereafter the Act, 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. Smith Cattle Co., Inc., hereinafter referred to as respondent Smith Cattle, is a corporation organized and existing under the laws of the State of Kentucky. Its business mailing address is P. O. Box 4040, Campbellville, Kentucky 42719.

2. Respondent Smith Cattle 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 as a corporation with the Secretary of Agriculture as a market agency buying livestock in commerce on a commission basis and as a dealer buying and selling livestock on its own account.

3. Cris Henry Smith, is an individual whose business mailing address is P. O. Box 4040, Campbellville, Kentucky 42719.

4. Respondent Cris Henry Smith is, and at all material times herein was:

(a) President of respondent Smith Cattle; and

(b) Owner of fifty percent of the stock issued by respondent Smith Cattle.

5. Respondent Cris Henry Smith, with respondent Samuel D. Smith, is:

(a) Responsible for the direction, management and control of respondent Smith Cattle; and

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

6. Samuel D. Smith, is an individual whose business mailing address is P. O. Box 4040, Campbellville, Kentucky 42719.

7. Respondent Samuel D. Smith is, and at all material times herein was:

(a) Secretary and Treasurer of respondent Smith Cattle;
and

(b) Owner of fifty percent of the stock issued by respondent Smith Cattle.

8. Respondent Samuel D. Smith, with Cris Henry Smith, is:

(a) Responsible for the direction, management and control of respondent Smith Cattle; 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 Smith Cattle and its alter egos Cris Henry Smith and Samuel D. Smith, their agents and employees, directly or through any corporate or other device, in connection with their operations subject to the Act shall cease and desist from failing to pay, when due, the full purchase price of livestock.

Respondent Smith Cattle and its alter egos Cris Henry Smith and Samuel D. Smith are suspended as registrants for twenty-eight days. Provided further, Cris Henry Smith and Samuel D. Smith, as individuals, are prohibited from operating subject to the Act until

each individual becomes registered and bonded as required by the Act in an individual capacity.

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.

SMITH CATTLE COMPANY

By *Cris Henry Smith*
President Smith Cattle Co.
Title

Cris Henry Smith
CRIS HENRY SMITH
Respondent

Samuel D. Smith
SAMUEL D. SMITH
Respondent

Jane McAvitt
JANE MCCAIVITT
Attorney for Complainant

Issued this 9th day of December, 1997

Dorthea A. Baker
Administrative Law Judge