

Davis

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

RECEIVED

1999 APR 13 PM 2: 49

In re:)	P. & S. Docket No. D-98-0007
)	
Watson H. Coker d/b/a Coker)	THE HEARING CLERK
Livestock and William H. Coker,)	OALJ-USDA
)	Decision Without Hearing by Reason of
Respondents)	Consent

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.) (hereinafter, the "P&SA") 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 Respondents have willfully violated the P&SA. 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).

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.

Complainant agrees to the entry of this decision.

Findings of Fact

(1) Respondent Watson H. Coker d/b/a Coker Livestock, is an individual whose business mailing address is P.O. Box 7, Coward, South Carolina 29530.

(2) Respondent Watson H. Coker d/b/a Coker Livestock is and at all times material herein was:

(a) Engaged in the business of a dealer buying and selling livestock in commerce for his own account or for the account of others and as a market agency, buying on commission; and *W H C*

(b) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock and as a market agency, to buy on commission.

(3) Respondent William H. Coker, is an individual whose business mailing address is P.O. Box 7, Coward, South Carolina 29530.

(4) Respondent William H. Coker is and at all times material herein was:

(a) Employed by his father, Respondent Watson H. Coker d/b/a Coker Livestock, at the facility in Coward, South Carolina; and

(b) Responsible, along with Respondent Watson H. Coker d/b/a Coker Livestock, for the direction, management and control of all business activities at the facility in Coward, South Carolina, including the acts and practices alleged in the complaint.

Conclusions

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

Order

Respondents Watson H. Coker d/b/a Coker Livestock and William H. Coker, their officers, directors, agents, employees, successors and assigns, individually or through any corporate or other device, in connection with their operations subject to the P&SA, shall cease and desist from:

- (a) Arbitrarily and fraudulently increasing the purchase weight of livestock and fraudulently reporting inaccurate purchase weights to the buyer of the livestock;
- (b) Fraudulently collecting payment for livestock based on false weights;
- (c) Misrepresenting to a buyer that livestock was purchased from fictitious sources, and collecting payment made in reliance on these misrepresentations; and *W H C*

(d) Making and keeping records which do not fully and correctly disclose livestock transactions.

Respondent Watson H. Coker d/b/a Coker Livestock is suspended as a registrant under the P&SA for a period of five (5) years. Respondent William H. Coker is prohibited from operating subject to the P&SA for a period of five (5) years.

Pursuant to section 312(b) of the P&SA (7 U.S.C. § 213(b)), Respondents are jointly and severally assessed a civil penalty in the amount of Ten Thousand Dollars (\$10,000), which shall be held in abeyance for the five year period in which Respondent Watson H. Coker d/b/a Coker Livestock is suspended as a registrant and Respondent William H. Coker is prohibited from operating subject to the P&SA. The \$10,000 civil penalty held in abeyance shall terminate at the end of this five year period unless, during this five year period:

1. Either Respondent violates the terms of this order by operating subject to the P&SA; and/or
2. Either Respondent violates the terms of this order requiring Respondents to cease and desist from committing certain violations of the P&SA; and/or
3. Either Respondent commits any violation of the P&SA.

If, after an opportunity for hearing, it is determined that, during this five year period, either Respondent has violated the terms of this order as outlined above by (1) operating subject to the P&SA, (2) failing to comply with the order that Respondents cease and desist from committing certain violations of the P&SA, or (3) committing any violation of the P&SA, the \$10,000 held in abeyance shall become due and payable without any further procedure.

The payment of the \$10,000 civil penalty held in abeyance shall not constitute liquidated damages for any P&SA violation that may be committed by either Respondent after the date of

WHC

this order, and additional sanctions may be imposed upon Respondents resulting from the commission of any P&SA violation after the date of this order.

The provisions of this order shall become effective on the first day after service of this order on the Respondents.

Copies of this decision shall be served upon the parties.

Watson H Coker
WATSON H. COKER
d/b/a COKER LIVESTOCK

William H Coker
WILLIAM H. COKER

Andrew Y. Stanton
ANDREW Y. STANTON
Attorney for Complainant

Issued this 13 day of

April, 1999.

Edwin S. Bernstein
Edwin S. Bernstein
Acting Chief Administrative Law Judge