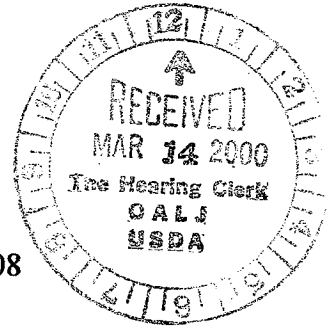


UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE



In re: ) P. & S. Docket No. D-98-0008  
Central Livestock Corporation )  
and Russell M. Frederick, )  
)  
Respondents ) Decision

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.), hereinafter “the Act”, by a complaint filed by the Deputy Administrator, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture. An amended complaint was filed in this proceeding alleging that the financial condition of the Corporate Respondent named herein does not meet the requirements of the Act, and that the Respondents wilfully violated the Act and the regulations promulgated 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).

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. Central Livestock Corporation, referred to herein as Corporate Respondent, is incorporated in the State of Kansas and has a business mailing address of 811 N. Main, South Hutchinson, Kansas 67505.

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

a. Engaged in the business of conducting and operating Central Livestock Corporation, a posted stockyard, subject to the provisions of the P&S Act;

b. Engaged in the business of a market agency selling livestock on a commission basis; and

c. Registered with the Secretary of Agriculture as a market agency to sell livestock on a commission basis.

3. Russell M. Frederick, also known as Mac Frederick and referred to herein as Respondent Frederick, is an individual whose address is 903 N. 7<sup>th</sup> Street, Sterling, Kansas 67579.

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

a. President of Corporate Respondent;

b. Owner of 100 percent of the shares in Corporate Respondent;

c. Responsible for the direction, management, and control of Corporate Respondent;

d. Engaged in the business of conducting and operating Central Livestock Corporation, a posted stockyard, subject to the P&S Act;

e. Engaged in the business of operating Corporate Respondent as a market agency selling livestock in commerce on a commission basis;

f. The *alter ego* of Corporate Respondent;

g. Engaged, individually, in the business of a dealer, buying and selling livestock in commerce for his own account and for the account of others; and

h. Registered with the Secretary of Agriculture as an individual, doing business as Atlas Cattle Company, as a dealer to buy and sell livestock in commerce.

#### Conclusions

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

#### Order

Respondent Central Livestock Corporation, its officers, directors, agents and employees, successors and assigns, directly or through any corporate or other device, and Respondent Russell M. Frederick, his agents and employees, directly or through any corporate or other device, in connection with their operations subject to the Packers and Stockyards Act, shall cease and desist from:

1. Engaging in business as a market agency selling livestock on a commission basis under the Act while their current liabilities exceed their current assets;
2. Failing to deposit in their 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;
3. 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);
4. Using funds received from the sale of consigned livestock for purposes of their own or for any purpose other than payment to consignors of the amount due from the sale of their livestock and the payment of lawful marketing charges.
5. Authorizing the withdrawal of funds from the custodial account for purposes of their

own or for any purpose other than payment to consignors of the amount due from the sale of their livestock and the payment of lawful marketing charges;

6. Classifying accounts receivable as current proceeds receivable in any custodial account reconciliation or custodial account special report; and

7. Failing to reimburse the custodial account by the close of the next business day for market support purchases, and for purchases made by Respondent Frederick, using the name Atlas Cattle Co., and by Dave Frederick.

Respondents shall keep and maintain records that fully and correctly disclose all transactions involved in the Corporate Respondent's business subject to the Act, including copies of custodial account reconciliations with supporting schedules, a complete outstanding check list, an accurate running balance on their custodial account, and the current ledger balance of their accounts receivable

Respondents shall provide Complainant with monthly custodial account reconciliations and quarterly balance sheets for a period of two years.

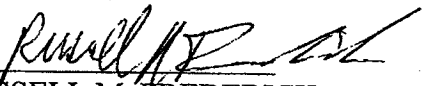
Respondents are jointly and severally assessed a civil penalty in the amount of \$16,000.00.


Respondents shall pay \$4,000.00 of this civil penalty immediately, and the balance in twelve monthly installments of \$1,000.00.


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.

CENTRAL LIVESTOCK CORPORATION

By   
RUSSELL M. FREDERICK  
President

  
RUSSELL M. FREDERICK  
Respondents

  
ERIC PAUL  
Attorney for Complainant

Issued this 14 day of March 2000

  
Administrative Law Judge