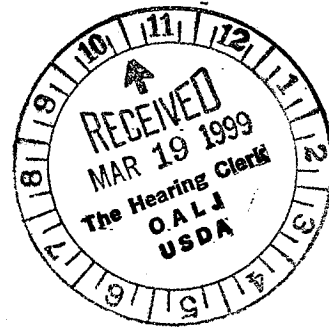


UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) P. & S. Docket No. D-98-21
)
Patrick Daly, d/b/a Daly)
Livestock, Glen Burkle)
and Earl Burkle,)
)
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, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that the respondents wilfully violated the 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 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. Patrick Daly, doing business as Daly Livestock, hereinafter respondent Daly, is an individual whose mailing address is Rural Route 2, Box 66, LeRoy, Minnesota 55951. Daly Livestock operates eight buying stations. The primary stations are located in LeRoy, Minnesota and Charles City, Iowa.

2. Respondent Daly is, and at all material times was:

- a) Engaged in the business of buying and selling livestock in commerce for his own account;
- b) The owner of Daly Livestock; and
- c) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce.

3. Glen W. Burkle, hereinafter "respondent G. Burkle," is an individual whose mailing address is 3219 22nd Avenue, NW, Waverly, Iowa 50677.

4. Respondent G. Burkle is, and at all material times was:

- a) Engaged in the business of a dealer buying livestock as the employee or agent of the vendor or purchaser;

b) The manager, with the assistance of his brother Earl Burkle, of the Daly Livestock facility in Charles City, Iowa;

c) A dealer within the meaning of those terms as defined in the Act and subject to the provisions of the Act.

5. Earl B. Burkle, hereinafter "respondent E. Burkle," is an individual whose mailing address is 710 12th Street, Waverly, Iowa 50677.

6. Respondent E. Burkle is, and at all material times was:

a) Engaged in the business of a dealer buying livestock as the employee or agent of the vendor or purchaser;

b) Assists his brother G. Burkle in managing the Daly Livestock facility in Charles City, Iowa;

c) A dealer within the meaning of those terms as defined in the Act and subject to the provisions of the Act.

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

Patrick Daly, Glen Burkle and Earl Burkle, 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. Weighing livestock at other than the true and correct weights;
2. Issuing scale tickets and purchase statements showing or based upon false or incorrect weights;
3. Paying the sellers of livestock on the basis of false or incorrect weights; and
4. Failing to operate and/or maintain livestock scales owned or controlled by them in strict conformity with the INSTRUCTIONS FOR WEIGHING LIVESTOCK regulations promulgated under the Act, 9 C.F.R. § 201.73-1.

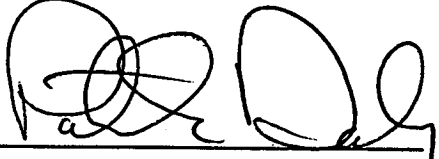
Respondents shall keep and maintain accounts, records, and memoranda which fully and correctly disclose the true nature of all transactions involved in their business subject to the Act, including scale tickets and purchase invoices which show the true and correct weights of livestock bought by respondents on a weight basis and which show the name or initials of the weigh master.

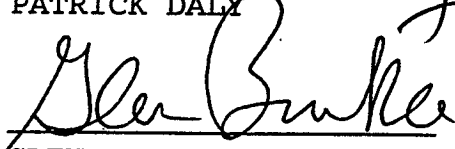
In accordance with section 312(b) of the Act (7 U.S.C. §213(b)), respondent Patrick Daly is assessed a civil penalty in the amount of Five Thousand Dollars (\$5,000.00).


In accordance with section 312(b) of the Act (7 U.S.C. §213(b)), respondents Glen Burkle and Earl Burkle are hereby jointly and severally assessed a civil penalty in the amount of Five Thousand Dollars (\$5,000.00).

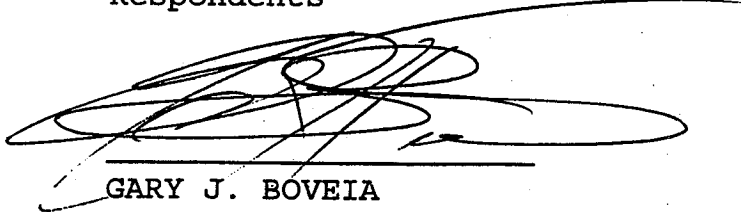
The provisions of this order shall become effective on the sixth day after service of this order on the respondents.


Copies of this decision shall be served upon the parties.


PATRICK DALY

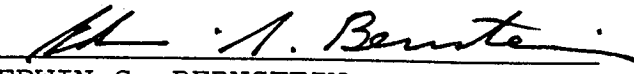

GLEN BURKLE


EARL BURKLE
Respondents


GARY J. BOVEIA
Attorney for Respondents


JANE MCCAIVITT
Attorney for Complainant

Issued this 19 day of March 1999


EDWIN S. BERNSTEIN
Administrative Law Judge