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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:)	P. & S. Docket No. D-98-0032
Ronald R. Cearley and Joy F. Cearley, a/k/a)	
Cearley Management Partnership, d/b/a)	
Douglas County Livestock Commission)	
and Valley Livestock Exchange,)	
)	
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, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that the financial condition of the respondents 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).

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. Ronald R. Cearley is an individual whose business mailing address is 82205 Butte Rd., Creswell, OR 97426.

2. Joy F. Cearley is an individual whose business mailing address is 82205 Butte Rd., Creswell, OR 97426.

3. Ronald R. Cearley and Joy F. Cearley, hereinafter referred to as respondents, are and at all times material herein were:

(a) Partners in a partnership known as Cearley Management Partnership, doing business as Douglas County Livestock Commission and Valley Livestock Exchange;

(b) Engaged in the business of selling livestock in commerce on a commission basis; and

(c) Registered with the Secretary of Agriculture, under their partnership name, as a market agency to sell livestock on a commission basis.

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

Respondents Ronald R. Cearley and Joy F. Cearley, individually, and as partners in a partnership a/k/a Cearley Management Partnership, d/b/a Douglas County Livestock Commission and Valley Livestock Exchange, their 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. 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;

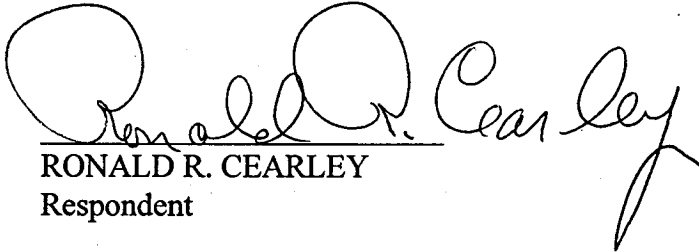
2. Failing to otherwise maintain the Custodial Account for Shippers' Proceeds in strict conformity with the provisions of Section 201.42 of the regulations (9 C.F.R. § 201.42);
3. Using funds received from the sale of consigned livestock for purposes of their own or for any purpose other than payment to consignors of the amount due from the sale of their livestock and the payment of lawful marketing charges;
4. Engaging in business as a registrant under the Act while their current liabilities exceed their current assets;
5. Issuing checks in payment of the net proceeds derived from the sale of livestock on a commission basis without having and maintaining sufficient funds on deposit and available in the account upon which such checks are drawn to pay such checks when presented; and
6. Failing to remit, when due, the net proceeds due from the sale of livestock on a commission basis.

Respondents shall keep and maintain accounts, records and memoranda which fully and correctly disclose all transactions involved in their business as a market agency subject to the Act, including, but not limited to: (1) regular custodial account reconciliations; (2) a complete outstanding check list; (3) an accurate check register; (4) returned checks; (5) a running custodial account balance; and (6) a current accounts receivable ledger balance.

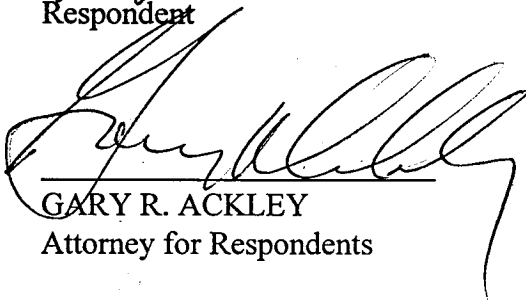
Respondents are suspended as registrants under the Act for a period of 49 days and thereafter until they demonstrate that the shortage in their Custodial Account for Shippers' Proceeds has been eliminated. A supplemental order will be issued in this proceeding terminating this suspension, after completion of the first 49 days of this suspension, if respondents demonstrate that the deficiency in their custodial account has been eliminated.

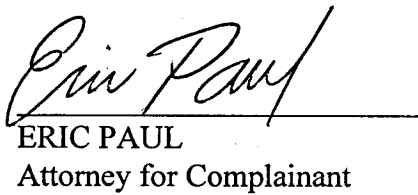
The provisions of this order shall become effective on the date this order is issued.

Copies of this decision shall be served upon the parties.

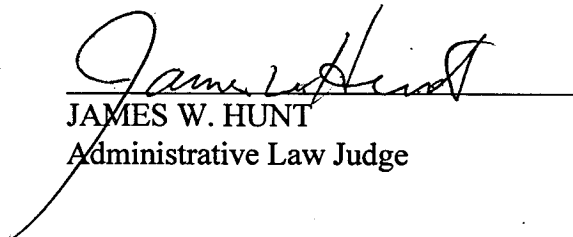

RONALD R. CEARLEY
Respondent


JOY F. CEARLEY
Respondent


GARY R. ACKLEY
Attorney for Respondents


ERIC PAUL
Attorney for Complainant

Issued this 11th day of May, 1999


JAMES W. HUNT
Administrative Law Judge