

UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

2000 MAY 18 P 4: 32

In re:)	P. & S. Docket No. D-00-00
Joseph E. Furr Livestock, Inc.,)	
and Joseph E. Furr,)	
)	
Respondents)	Decision

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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 James R. Baker, Administrator, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, 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. Respondent Joseph E. Furr Livestock, Inc., hereinafter referred to as the corporate respondent, is a Virginia corporation whose business mailing address is P.O. Box 2554, Staunton, Virginia 24402-2554.

2. The corporate respondent is, and at all times material herein was:

(a) Engaged in the business of a dealer buying and selling livestock in commerce for its own account and for the accounts of others, and of a market agency buying livestock in commerce on a commission basis; and

(b) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for its own account or the accounts of others, and as a market agency to buy livestock in commerce on a commission basis.

3. Central Virginia Livestock Market, Inc., not a respondent herein, is a corporation that is registered with the Secretary of Agriculture as a market agency selling livestock in commerce on a commission basis that operates a posted stockyard at Amherst, Virginia.

4. Respondent Joseph E. Furr, hereinafter referred to as the individual respondent, is an individual whose address is 1225 Middlebrook Ave., Staunton, Virginia 24401, and whose business mailing address is P.O. Box 2554, Staunton, Virginia 24402-2554.

5. The individual respondent is, and at all times material herein was:

(a) President and 100 % owner of the corporate respondent;

(b) President and 25 % owner of Central Virginia Livestock Market, Inc.;

(c) Responsible for the direction, management, and control of the corporate respondent;

(d) Responsible for the direction, management, and control of Central Virginia Livestock Market, Inc.;

(e) A dealer, a market agency buying livestock in commerce on a commission basis, and a market agency selling livestock in commerce on a commission basis within the

meanings of these terms under the Act and subject to the Act; and

- (f) Not registered with the Secretary of Agriculture in any capacity.

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 Joseph E. Furr Livestock, Inc., its officers, directors, agents and employees, successors and assigns, directly or through any corporate or other device, and Respondent Joseph E. Furr, 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 dealer buying and selling livestock in commerce for its own account or the accounts of others, and a market agency buying livestock in commerce on a commission basis, while insolvent, that is, while their current liabilities exceed their current assets;
2. Failing to pay the full purchase price of livestock;
3. Failing to pay, when due, the full purchase price of livestock;
4. Issuing checks in payment for livestock purchases without having sufficient funds on deposit and available in the account upon which such checks are drawn to pay such checks when presented; and
5. Withdrawing funds from the corporate respondent's bank account, and taking proceeds received from the sale of livestock by the corporate respondent, and using such monies

for the payment of personal loans or other individual purposes of respondent Joseph E. Furr, while respondent Joseph E. Furr Livestock, Inc., or any successor or other dealer or market agency owned or controlled by respondent Joseph E. Furr, has past due livestock payment obligations under the Act.

Respondent Joseph E. Furr, his agents and employees, directly or through Central Virginia Livestock Market, Inc. or any corporate or other device, in connection with his operations subject to the Packers and Stockyards Act, shall cease and desist from:

1. Failing to reimburse the Custodial Account for Shippers' Proceeds by the close of the next business day for livestock purchases made by respondent Joseph E. Furr, respondent Joseph E. Furr Livestock, Inc., or by any other entity that is owned or controlled by respondent Joseph E. Furr;
2. Borrowing or withdrawing funds from the Custodial Account for Shippers' Proceeds for any purpose other than the payment of lawful marketing charges and the remittance of net proceeds to the consignors and shippers of 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); and
4. Using funds received as proceeds from the sale of livestock sold on a commission basis for purposes of its own or for any purpose other than the payment of lawful marketing charges and the remittance of net proceeds to the consignors and shippers of livestock;

Respondent Joseph E. Furr Livestock, Inc., and respondent Joseph E. Furr as its *alter ego*, are suspended as registrants under the Act for a period of 5 years, and thereafter until they demonstrate solvency, that is, that their current liabilities no longer exceed their current assets,

provided, that these suspensions may be terminated after the initial 360 days are served upon demonstration that all unpaid livestock sellers have been paid and that solvency has been restored. Respondent Joseph E. Furr may not serve as president or officer of Central Virginia Livestock Market, Inc., or perform any duties as an agent or employee of this market agency or any other market agency, dealer or packer while suspended, provided, that the suspension of respondent Joseph E. Furr, may be modified after 360 days and upon demonstration of circumstances warranting modification of the order to permit the employment of respondent Joseph E. Furr in a capacity that does not involve the purchase or sale of livestock.

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

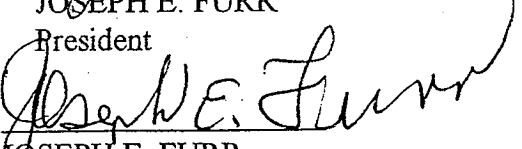
Copies of this decision shall be served upon the parties.

JOSEPH E. FURR LIVESTOCK, INC.


By


JOSEPH E. FURR

President

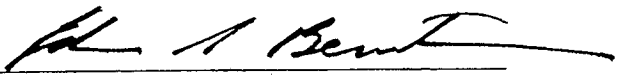

JOSEPH E. FURR

Respondents


ERIC PAUL

Attorney for Complainant

Issued this 17 day of May 2000


Administrative Law Judge