

RECEIVED
APR 21 2004

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

USDA
OALJ/HCO

In re:)	P&S Docket No. D-03-0501	2004 APR 20 P 12:43
)		
Patsy L. Leone, Jr.,)		
)		
Respondent)	Consent Decision	RECEIVED

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 alleging that Respondent has willfully violated the Act. This decision is entered pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted By the Secretary Under Various Statutes (7 C.F.R. § 1.138).

Respondent admits the jurisdictional allegations in paragraph I of the complaint and specifically admits that the Secretary has jurisdiction in this matter; neither admits nor denies the remaining allegations; waives oral hearing and further procedure; and consents and agrees, 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. Patsy L. Leone, Jr., referred to herein as the "Respondent" is an individual whose business mailing address is 129 Wood Lane, Utica, New York 13502.

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

- a. Engaged in the business of buying and selling livestock in commerce for his own account; and
- b. Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce and as a market agency to buy livestock on a commission basis.

Conclusions

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

Order

Respondent Patsy L. Leone, Jr., his agents and employees, directly or through any corporate or other device, in connection with his activities subject to the Packers and Stockyards Act, shall cease and desist from:

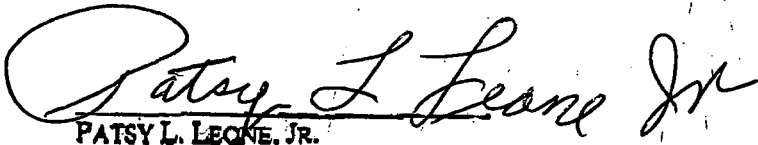
1. Issuing checks in payment for livestock purchases without maintaining sufficient funds on deposit and available in the account upon which the checks are drawn to pay the checks when presented;
2. Failing to pay, when due, the full purchase price of livestock; and
3. Failing to pay the full purchase price of livestock.


In accordance with Section 312(b) of the Act (7 U.S.C. § 213(b)), Respondent is hereby assessed a civil penalty of six thousand, seven hundred and fifty dollars (\$6,750.00). The assessed civil penalty shall be paid by the immediate payment of one thousand seven hundred and fifty dollars (\$1,750.00), and by four additional payments of one thousand two hundred and fifty dollars (\$1,250.00) each by May 15, 2004, June 15, 2004, July 15, 2004, and August 15,

2004. Provided that if any installment is not paid by the date required, the entire balance outstanding shall become due and payable immediately, and Respondent explicitly agrees that a consent judgment may be entered in the United States District Court for the full amount due and owing and such interest thereon and court costs as may be provided by law. Respondent expressly waives any further appearance or procedure in this matter. Full payment of the civil penalty assessed herein also shall satisfy any remaining unpaid amounts owed by Respondent pursuant to the consent decision entered in P&S Docket No. D-95-21 on October 4, 1996.

The provisions of this order shall become effective on the sixth (6th) day after service of this order on the Respondent.

Copies of this decision shall be served upon the parties.


PATSY L. LEONE, JR.
Respondent


CHARLES E. SPICKNALL
Attorney for Complainant

Issued in Washington D.C.

this 20th day of April, 2004


ADMINISTRATIVE LAW JUDGE