UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:)   P & S Docket No. 04-0015
)
    Joseph M. Alder,   )
)
          Respondent   )   Consent 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 alleging that Respondent has willfully violated the Act. This decision is entered pursuant to the consent decision provision of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted By the Secretary Under Various Statutes (hereinafter the "Rules of Practice"). See 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.

<div align="center">Findings of Fact</div>

1.   Joseph M. Alder, referred to herein as the "Respondent," is an individual whose business mailing address is 1012 S. Main Street, P.O. Box 541, Blackstone, Virginia 23824.

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

    (a)   Engaged in the business of buying and selling livestock in commerce for his own account and buying livestock on a commission basis for others; and

    (b)   Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce.

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 Joseph M. Alder, 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

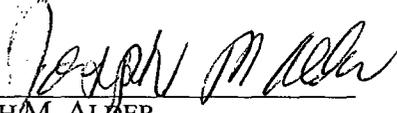3.   Failing to pay the full purchase price of livestock.

Respondent shall keep accounts, records and memoranda that fully and correctly disclose all transactions involved in his business. Specifically, Respondent shall keep invoices, bank statements, cancelled checks, deposit tickets and other records associated with individual livestock purchases. Respondent shall also keep a purchase journal recording the date of purchase, seller, number of head, description of livestock, purchase price, date received, commission charge and identity of the person or firm on whose account the livestock were purchased.

Respondent is hereby suspended as a registrant under the Act for a period of five years. Provided, however, that upon application to Packers and Stockyards Programs a supplemental order may be issued terminating the suspension of Respondent at any time after 120 days upon demonstration by Respondent of circumstances warranting such termination; and provided further, that this order may be modified upon application to Packers and Stockyards Programs to

permit the salaried employment of Respondent by another registrant or packer after the expiration of the initial 120 days of this suspension term and upon demonstration of circumstances warranting modification of the order.

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

Copies of this decision and order shall be served upon the parties.

_____
JOSEPH M. ALBER
Respondent

_____
CHARLES E. SPICKNALL
Attorney for Complainant

Issued in Washington D.C.

this ___ day of ___ 2004

_____
Administrative Law Judge