

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

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USDA, GIPSA, OA

In re:

) P & S Docket No. D-07-0052

)  
)  
) Central Livestock Corporation; and  
) Russell M. Frederick, an individual,  
) and d/b/a Atlas Cattle Company,  
)

) Decision Without Hearing by Reason of  
) Respondents ) Consent

This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.), hereinafter the "Act," by a Complaint filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that Respondents have willfully violated the Act. This decision is entered pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes (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) Central Livestock Corporation, referred to herein as the "Corporate Respondent," is a corporation organized and existing under the laws of the State of Kansas. Its mailing address

is 811 N. Main Street, South Hutchinson, Kansas 67505.

(2) At all times material herein, Corporate Respondent was:

(a) Engaged in the business of conducting and operating Central Livestock Corporation, a posted stockyard, subject to the provisions of the Act;

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

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

(3) Russell M. Frederick, also known as "Mac" Frederick and referred to herein as "Respondent Frederick," is an individual whose mailing address is 227 N. 3<sup>rd</sup> Street, Sterling, Kansas 67579.

(4) Respondent Frederick is and at all times material herein was:

(a) President and Member of the Board of Directors of the Corporate Respondent;

(b) Owner of 90 percent of the shares in the Corporate Respondent;

(c) Responsible for the direction, management, and control of the Corporate Respondent;

(d) Engaged in the business of operating Corporate Respondent as a market agency selling livestock in commerce on a commission basis;

(e) Engaged, individually, in the business of a dealer, buying and selling livestock in commerce for his own account; and

(f) Registered with the Secretary of Agriculture as an individual, doing business as Atlas Cattle Company, as a dealer to buy and sell livestock in commerce.

#### Conclusions

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

#### Order

Respondents Central Livestock Corporation and Russell M. Frederick individually and doing business as Atlas Cattle Company, their agents and employees, directly or through any corporate or other device, in connection with activities subject to the Act, shall cease and desist from:

1. Failing to properly maintain a Custodial Account For Shippers Proceeds, as required by Section 201.42 of the regulations (9 C.F.R. §201.42), while operating as a market agency selling livestock on a commission basis;
2. Misusing a market agency custodial account by withdrawing funds for a purpose other than for payment of (1) the net proceeds to the consignor or shipper, or to any person that the market agency knows is entitled to payment, (2) to pay lawful charges against the consignment of livestock which the market agency shall, in its capacity as agent, be required to pay, and (3) to obtain any sums due the market agency as compensation for its services;
3. Failing to remit the full amount of net proceeds due from the sale of livestock within the time period required by Section 201.43 of the regulations (9 C.F.R. §201.43), in connection with operations as a market agency selling livestock on a commission basis;

4. Issuing checks for which there are insufficient funds on deposit and available in the account upon which the checks are drawn to pay the checks when presented; and

5. Failing to pay, when due, the full purchase of livestock as required by Section 409 of the Act (7 U.S.C. §228b).

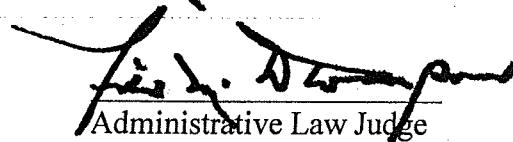
Respondents Central Livestock Corporation and Russell M. Frederick individually and doing business as Atlas Cattle Company are hereby suspended as registrants under the Act for a period of 5 years and thereafter until custodial account shortages are corrected.

The provisions of this Order shall become final and effective on the sixth (6<sup>th</sup>) day after service upon Respondents.

Copies of this Decision and Order shall be served upon the parties.


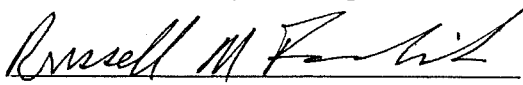
Issued in Washington D.C.

this 15<sup>th</sup> day of March, 2007.



Administrative Law Judge

PETER M. DAVENPORT

  
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For Central Livestock Corporation  
\_\_\_\_\_  
Russell M. "Mac" Frederick  
\_\_\_\_\_  
For Atlas Cattle Company  
\_\_\_\_\_

Gary F. Ball  
Attorney for Complainant