

USDA
OFFICE
UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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DEC 7 2 21

In re:) P & S Docket No. D-07-0099
)
) Ty Wayne McMurtry,)
))
)) Decision Without Hearing by Reason of
) Respondent) Consent

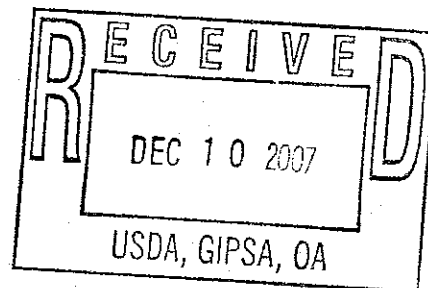
This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.), hereinafter the "Act," by a Complaint filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that Respondent has 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).

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) Ty Wayne McMurtry (hereinafter "Respondent") is an individual whose mailing address is 3975 S. FM 1258, Amarillo, TX 79118. At all times material herein, Respondent conducted business individually and as C & M Livestock.



cc: Rott

- (2) At all times material herein, Respondent was:
- (a) Engaged in the business of buying and selling livestock in commerce for his own account as a dealer; and
 - (b) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for his own account, and as a market agency buying livestock on commission.

Conclusions

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

Order

Respondent Ty Wayne McMurtry, his 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 pay, when due, the full purchase price of livestock as required by Section 409 of the Act (7 U.S.C. § 228b);
2. 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;
3. Engaging in business in any capacity for which bonding is required under the Act and the regulations without filing and maintaining an adequate bond or its equivalent as required by the Act and the regulations; and
4. Basing the price of livestock sold by weight on other than the actual weight shown on the scale ticket, and if the actual weight used is not obtained on the date and at the

place of transfer of possession, failing to disclose information with the date and location of the weighing on the accountings, bills, or statements issued.

Respondent Ty Wayne McMurtry is hereby suspended as a registrant under the Act for a period of 5 years. *Provided*, however, that upon application to Packers and Stockyards Program, a supplemental order may be issued terminating the suspension at any time after 12 months, upon demonstration of circumstances warranting such modification. *Provided*, further, that this Order may be modified upon application to Packers and Stockyards Program to permit Respondent's salaried employment by another registrant or packer after the expiration of 12 months of this suspension term and upon demonstration of circumstances warranting modification.

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

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

Issued this 7 day of December, 2007.

Jill S. Clifton

Administrative Law Judge

Jill S. Clifton

Ty Wayne McMurtry
Ty Wayne McMurtry

Gary F. Ball
Gary F. Ball
Attorney for Complainant