



United States  
Department of  
Agriculture

## CERTIFIED RECEIPT REQUESTED

November 9, 2011

Office of  
Administrative  
Law Judges

Welch Stockyards, LLC  
P.O. Box 1199  
Seneca, MO 64865

Hearing Clerk

Room 1031  
South Building

Darrel R. Clark  
P.O. Box 1199  
Seneca, MO 64865

1400 Independence  
Avenue SW

Washington, DC  
20250-9200

Dear Respondents:

(202) 720-4443  
(202) 720-9776 fax

Subject: Welch Stockyards, LLC, and Darrel R. Clark, Respondents  
Docket Number 11-0384

Enclosed is a copy of the **Default Decision and Order** issued in this proceeding by Chief Administrative Law Judge Peter M. Davenport on November 9, 2011. Please note that each party has **thirty (30) days** after being served with a copy of this Default Decision and Order to file an appeal to the Department's Judicial Officer.

If no appeal is filed, the Default Decision and Order shall become final and effective as to each party **thirty-five (35) days** after the date of service. However, if an appeal is filed the Default Decision and Order is not final for purposes of judicial review. Upon completion of judicial review, an Order will be issued by the Secretary of Agriculture or the Judicial Officer.

If you elect to file an appeal, please note that an original and three (3) copies of the appeal are required. Please refer to the Uniform Rules of Practice (7 C.F.R. § 1.145) to obtain information regarding the procedure for filing an appeal. Lastly, you received a copy of the Uniform Rules of Practice when you were served with the Complaint.

Sincerely,

L. Eugene Whitfield  
Hearing Clerk

Sent To: Leah C. Battaglioli, OGC  
Alan R. Christian, GIPSA

JC: 11/9/11

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UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 11-0384

In re: Welch Stockyards, LLC, and  
Darrel R. Clark

Respondents

**Default Decision and Order**

This disciplinary proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.) (Act), by a Complaint filed on September 8, 2011, by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture (Complainant), alleging that Respondents Welch Stockyards, LLC, and Darrel R. Clark, willfully violated the Act and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.) (Regulations).

On September 9, 2011, copies of the Complaint were sent to Respondents by certified mail. Respondents were served with the Complaint on September 12, 2011. Complainant's attorney also sent a letter dated September 20, 2011, and a proposed consent decision to Respondents by certified mail. Respondents were informed in the letter that they could file an answer to the Complaint and request a hearing or that they could dispose of the matter by signing the proposed consent decision. The letter and proposed consent decision were received by

Respondents on September 26, 2011. Respondents Welch Stockyards, LLC, and Darrel R. Clark did not file an answer to the Complaint nor did they respond to the letter and proposed consent decision sent by Complainant's attorney.

As Respondents Welch Stockyards, LLC, and Darrel R. Clark failed to file an answer within the time period prescribed by the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.136) (Rules of Practice), the following Findings of fact, Conclusions of Law and Order will be entered pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

**Findings of Fact**

1. Welch Stockyards, LLC (Respondent Welch), was a limited liability company organized and existing under the laws of the State of Oklahoma. Respondent Welch's limited liability company status became inactive on or about August 1, 2009. Respondent Welch ceased business operations on or about June 12, 2008.
2. At all times material to the Complaint, Respondent Welch was:
  - (a) Engaged in the business of a market agency selling livestock in commerce on a commission basis;
  - (b) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for its own account; and
  - (c) Registered with the Secretary of Agriculture as a market agency to sell livestock in commerce on a commission basis.
3. Darrel R. Clark (Respondent Clark) is an individual whose current mailing address is in Seneca, Missouri.
4. At all times material to the Complaint, Respondent Clark was:

- (1) The sole member of Respondent Welch;
- (2) One hundred percent owner of Respondent Welch; and
- (3) Responsible for the direction, management, and control of Respondent Welch.

5. Respondent Welch, under the direction, management, and control of Respondent Clark, on or about the dates and in the transactions set forth in Appendix A to the Complaint and incorporated herein by reference, misused its custodial account by permitting Respondent Clark to use custodial account funds to pay for outstanding loans.

6. Respondent Welch, under the direction, management, and control of Respondent Clark, on or about the dates and in the transactions set forth in Appendix B to the Complaint and incorporated herein by reference, misused its custodial account by permitting the withdrawal of bank charges from its custodial account.

7. Respondent Welch, under the direction, management, and control of Respondent Clark, in connection with its operations subject to the Act, on or about the dates and in the transactions set forth in Appendix C to the Complaint and incorporated herein by reference, sold livestock on a commission basis and in purported payment of the net proceeds thereof, issued checks to consignors or shippers of such livestock which were returned unpaid by the bank upon which they were drawn because Respondent Welch did not have and maintain sufficient funds on deposit and available in the account upon which such checks were drawn to pay such checks when presented.

8. Respondent Welch, under the direction, management, and control of Respondent Clark, in connection with its operations subject to the Act, on or about the dates and in the transactions set forth in Appendix C to the Complaint and incorporated herein by reference, and in the

additional transactions set forth in Appendix D to the Complaint and incorporated herein by reference, failed to timely remit, within the time periods required by the Act and the Regulations, the net proceeds due to consignors from the sale of livestock on a commission basis. After payout from Respondent Welch's bond, \$35,490.74 remains unpaid.

### **Conclusions of Law**

1. The Secretary has jurisdiction in this matter.
2. Respondent Clark is the alter ego of Respondent Welch.
3. Respondents willfully violated sections 307 and 312(a) of the Act (7 U.S.C. §§ 208, 213(a)), and sections 201.42 and 201.43 of the Regulations (9 C.F.R. § 201.42 and 201.43).

### **Order**

1. Respondent Welch and Respondent Clark, their agents and employees, directly or through any corporate or other device, in connection with their operations subject to the Act, shall cease and desist from

a. Using funds received from the sale of consigned livestock for any purpose other than payment to consignors of the amount due from the sale of their livestock and the payment of lawful marketing charges, including, but not limited to:

- (1) the payment of outstanding loans; and
- (2) the payment of bank charges;

b. Issuing custodial account checks without having sufficient funds on deposit and available in the Custodial Account for Shippers' Proceeds upon which the checks are drawn to pay the checks when presented for payment;

c. Failing to remit the proceeds of livestock sales in strict conformity with section 201.43 of the Regulations (9 C.F.R. § 201.43); and

d. Failing to remit, when due, the proceeds of livestock sales in strict conformity with section 201.43 of the Regulations (9 C.F.R. § 201.43).

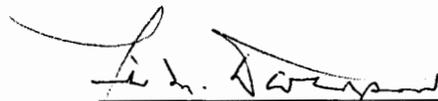
2. Pursuant to 7 U.S.C. § 204, Respondent Welch, and Respondent Clark as the alter ego of Respondent Welch, are suspended as registrants under the Act for a period of five (5) years.

3. In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondents are also assessed, jointly and severally, a civil penalty in the amount of Seventy-Seven Thousand Five Hundred Dollars (\$77,500.00).

4. This Decision and Order shall become final and effective without further proceedings thirty-five (35) days after service on Respondents, unless appealed to the Judicial Officer by a party to the proceeding within thirty (30) days after service as provided in sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139, 1.145).

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

November 9, 2011



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Peter M. Davenport  
Chief Administrative Law Judge