

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

Lee Grage	)	P&S Docket No. R-96-9
	)	
Complainant,	)	
	)	
v.	)	
	)	
Bob Crouch and	)	
Joplin Regional Stockyards, Inc.	)	
	)	
Respondents.	)	Decision and Order

This is a reparation proceeding under the Packers and Stockyards Act, 1921, (hereinafter "Act"), as amended and supplemented, begun by a complaint filed on August 4, 1995, alleging that respondent Bob Crouch (hereinafter respondent Crouch) purchased 86 cattle on a commission basis for complainant Grage at respondent Joplin Regional Stockyards, Inc., and in addition to charging complainant \$.75/cwt., buying commission, also marked up the purchase price \$3.00/cwt. The amount claimed was \$2,433.58.

A copy of the complaint and a copy of the investigative report prepared by the Grain Inspection, Packers and Stockyards Administration of this Department, and filed in this proceeding under the rules of practice were served on each respondent and on the complainant.

Findings of Fact

1. Complainant Grage is an individual residing at 44787 230th Street, Remsen, Iowa 51050.
2. Respondent Crouch is an individual whose mailing address is P.O. Box 8092, Springfield, Missouri 65801.

3. Respondent Joplin is a corporation whose mailing address is P.O. Box 363, Carthage, Missouri 64836.
4. On May 8, 1995, in interstate commerce, respondent Crouch purchased, at respondent Joplin, 86 cattle on a market agency (commission) basis for complainant Grage.
5. Respondent Crouch, in addition to charging complainant Grage an agreed \$.75/cwt., buying commission, also, without the knowledge of complainant Grage, marked up the purchase price of the cattle \$3.00/cwt., resulting in injury to complainant Grage in the amount of \$2,433.58.
6. Complainant Grage found out about the \$3.00/cwt., mark up in price of the cattle on about July 20, 1995, when he obtained, from respondent Joplin, documentation concerning the purchase of the cattle.
7. On August 4, 1996, complainant Grage filed a reparation complaint in the amount of \$2,433.58 against respondents Crouch and Joplin.
8. The complaint was filed within 90 days of the date of the transaction.
9. A copy of the complaint and investigative report were served on respondent Joplin on January 30, 1996.
10. A copy of the complaint and investigative report were mailed to respondent Crouch by certified mail on January 24, 1996, and was returned by the Post Office Department on March 11, 1996, marked "unclaimed."
11. On March 20, 1996, the complaint and investigative report were re-mailed to respondent Crouch, by regular mail, on which date service is deemed to have been made.

12. Respondent Joplin filed an answer to the complaint on February 20, 1996, denying having benefited from the markup in price. However, respondent Joplin having paid complainant Grage \$1,250.00 of the \$2,433.58 amount claimed; leaving an unpaid balance of \$1,183.58.

13. Respondent Crouch did not file an answer to the complaint.

#### Conclusions

Respondent Joplin indicates in its answer that it had no knowledge of the \$3.00/cwt., mark up in addition to the \$.75/cwt., commission charged by respondent Crouch and paid by complainant Grage. However, the operator of respondent Joplin said "to keep my name clean I would send him a check for \$1,250.00."

Respondent Joplin has paid complainant Grage \$1,250.00 (51.36%) of the \$2,433.58 amount claimed. We can find no basis for liability in this matter as to respondent Joplin and the complaint should and will be dismissed against respondent Joplin.

In addition, the failure of respondent Crouch to file an answer in this matter constitutes a default. Under Rule 6(d) of the rules of practice (9 C.F.R. § 202.106 (d)), a respondent who fails to file an answer is deemed to have admitted all of the allegations of the complaint, and to have consented to the issuance of a final order in the proceeding. Therefore, based on the facts of this matter as found above, we hold that respondent Crouch is liable to complainant for reparation in the entire amount of \$2,433.58 with interest.

Order

Within 30 days of the date of this order, respondent Bob Crouch shall pay to complainant Lee Grage \$2,433.58 together with interest thereon at the rate of ten per cent (10%) per annum from June 1, 1995, until paid.

The complaint against respondent Joplin Regional Stockyards, Inc., is hereby dismissed.

Copies of this Order shall be served on the parties.

Done at Washington, D.C.

APR 09 1997

WILLIAM G. JENSON

Judicial Officer

Office of the Secretary