

UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

2002 JAN 15 P 2:52

In re: ) P. & S. Docket No. D-00-0008  
W.W. Livestock, Inc., O. Wayne Clark, )  
Ernie L. Kennedy, and Warren Young, )  
Respondents ) Decision as to Respondent  
Ernie L. Kennedy

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This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.) by a complaint filed by the Acting Deputy Administrator, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that the Respondents wilfully violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 et seq.). This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

Respondent Ernie L. Kennedy 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. W.W. Livestock, Inc., hereinafter referred to as Respondent W.W. Livestock, is a Florida corporation whose business mailing address is P.O. Box 87, Madison, Florida 32341.
2. Respondent W.W. Livestock at all times material herein was:

(a) Engaged in the business of buying and selling livestock in commerce for its own account; and

(b) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for its own account or the accounts of others.

3. Respondent Ernie Kennedy, hereinafter referred to as Respondent Kennedy, is an individual whose mailing address is, Rt. 1, Box 97, Pinetta, Florida 32350.

4. Respondent Kennedy is, and at all times material herein was:

(a) A dealer buying and selling livestock in commerce for the account of Respondent W.W. Livestock and a market agency buying livestock on a commission basis within the meaning of these terms under the Act and subject to the Act; and

(b) Individually registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for his own account or the account of others and as a market agency to buy livestock in commerce on a commission basis.

5. Respondent Kennedy, at all times material herein, was a clearee under the livestock dealer bond of Respondent W.W. Livestock;

#### Conclusions

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

#### Order

Respondent Ernie L. Kennedy, his agents and employees, directly or through any corporate or other device, in connection with his operations subject to the Packers and Stockyards Act, shall cease and desist from:

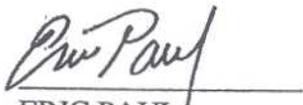
1. Selling livestock on false and inflated weights, or on any weights other than the original purchase weights of the livestock or the actual weights determined upon a proper re-weighing of the livestock as required by section 201.55 of the regulations (9 C.F.R. § 201.55);
2. Failing to disclose on the accountings, bills or statements issued when livestock is sold the location and date where the actual weight is determined, whenever the actual weight used is not obtained on the date and at the place of transfer of possession, as required by section 201.55 of the regulations (9 C.F.R. § 201.55);
3. Issuing sales invoices or other records containing false or manipulated livestock weights;
4. Operating any livestock scale, individually or jointly, or directing any other person in the operation of any livestock scale, in any manner other than to ensure accurate and correct weights;
5. Failing to weigh livestock as required by the Instructions for Weighing Livestock (9 C.F.R. § 201.73-1);
6. Creating false scale tickets to conceal weight manipulation; and
7. Failing to properly use and complete scale tickets in connection with the weighing of livestock as required by section 201.49(a) of the regulations (9 C.F.R. § 201.49(a)).

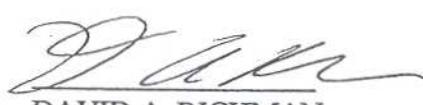
Respondent Ernie L. Kennedy is suspended as a registrant under the Act for the period of five years. Respondent Kennedy may not be employed by, or act as the agent of, any dealer, market agency or packer, in connection with the buying, selling, or weighing of livestock, or the preparation of livestock transaction records, while suspended as a registrant.

The provisions of this Order shall become effective on the sixth day after service of this order on Respondent Kennedy.

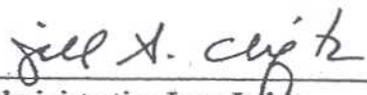
Copies of this decision shall be served upon the parties.

  
ERNIE L. KENNEDY  
Respondent

  
ERIC PAUL  
Attorney for Complainant

  
DAVID A. RICHMAN  
Attorney for Complainant

Issued this 14 day of January 2002

  
Administrative Law Judge

This Decision was served upon Respondent Ernie L. Kennedy in the hearing on the record on January 14, 2002. JSC