

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

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In re: ) P. & S. Docket No. D-02-0004  
Mammoth Cave Dairy Auction, Inc., )  
Kenneth F. Deputy, and Michael )  
Allen Hatcher, )  
Respondents ) Decision

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.), hereinafter "the Act", by a complaint filed by the Acting Deputy Administrator, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration (GIPSA), 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).

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. Mammoth Cave Dairy Auction, Inc., referred to herein as Corporate Respondent, is incorporated in the State of Kentucky and has a business mailing address of P.O. Box 129, Smiths Grove, KY 42171.
2. Corporate Respondent is and at all times material herein was:
  - (a) Engaged in the business of conducting and operating Mammoth Cave

Dairy Auction, 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. Kenneth F. Deputy, referred to herein as Respondent Deputy, is an individual whose business mailing address is P.O. Box 129, Smiths Grove, KY 42171.

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

(a) President of Corporate Respondent;

(b) Owner of 100 percent of the shares in Corporate Respondent;

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

(d) Engaged in the business of conducting and operating Mammoth Cave Dairy Auction, a posted stockyard, subject to the Act;

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

(f) A market agency within the meaning of this term under the Act and subject to the Act; and

(g) Not individually registered with the Secretary of Agriculture in any capacity under the Act.

5. Michael Allen Hatcher, referred to herein as Respondent Hatcher, is an individual whose business mailing address is P.O. Box 517, Columbia, KY 42728.

6. Respondent Hatcher is and at all times material herein was:

(a) Vice President, Secretary-Treasurer, and manager of Corporate

Respondent;

(b) Responsible for the direction, management, and control of Corporate

Respondent;

(c) Engaged in the business of conducting and operating Mammoth Cave

Dairy Auction, a posted stockyard subject to the Act;

(d) Engaged in the business of operating Corporate Respondent as a market

agency selling livestock in commerce on a commission basis;

(e) A market agency selling livestock in commerce on a commission basis

under the Act;

(f) Engaged, individually, in the business of a dealer, buying and selling

livestock in commerce for his own account; and

(g) Registered with the Secretary of Agriculture, individually, as a dealer to

buy and sell livestock in commerce for his own account.

#### Conclusions

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

#### Order

Respondent Mammoth Cave Dairy Auction, Inc., its officers, directors, agents and employees, successors and assigns, directly or through any corporate or other device, and Respondents Kenneth F. Deputy and Michael Allen Hatcher, their agents and employees, directly

or through any corporate or other device, in connection with their operations subject to the Packers and Stockyards Act, shall cease and desist from:

1. Failing to deposit in the Custodial Account for Shippers' proceeds within the times prescribed in section 201.42 of the regulations (9 C.F.R. § 201.42) amounts equal to the outstanding proceeds receivable due from the sale of consigned livestock;
2. Failing to otherwise maintain the Custodial Account for Shippers' proceeds in strict conformity with section 201.42 of the regulations (9 C.F.R. § 201.42);
3. Failing to reimburse the Custodial Account for Shippers' Proceeds by the close of the next business day for market support purchases, for purchases made by Respondent Hatcher, and for purchases made by other employees;
4. Using funds received from the sale of consigned livestock for purposes of their own, including the making of loans to Respondent Hatcher and the payment of general market operating expenses, or 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;
5. Issuing checks in purported payment of net proceeds to livestock consignors without having sufficient funds on deposit and available in the Custodial Account for Shippers' Proceeds upon which such checks are drawn to pay such checks when presented;
6. Failing to remit, when due, the net proceeds from the sale of consigned livestock to consignors; and
7. Authorizing, or permitting without immediate reimbursement, the payment of NSF check and other bank charges from the Custodial Account for Shippers Proceeds.

Further, Respondent Michael Allen Hatcher in connection with his operations subject to

the Packers and Stockyards Act, shall cease and desist from:

1. Issuing checks in purported payment of livestock purchases without having sufficient funds on deposit and available in the account upon which such checks are drawn to pay such checks when presented;

2. Failing to pay, when due, for livestock purchases;

3. Failing to pay for purchases of livestock; and

4. Writing off his unpaid livestock payment obligations and loans on the Corporate Respondent's books as bad debts.

Respondents, in connection with the Corporate Respondent's operations, shall keep and maintain such accounts, records, and memoranda as fully and correctly disclose their transactions subject to the Act and the regulations, including but not limited to: (a) copies of NSF checks received in payment for livestock or records showing the payment received for livestock upon release of the NSF checks; and (b) livestock purchase and livestock payment records and accountings for Respondent Hatcher and any other officer or employee permitted to purchase consigned livestock. These livestock purchase and payment records shall be maintained separately from loan advancement and loan payment records and accountings for Respondent Hatcher and any other officer or employee permitted to borrow corporate funds.

Respondent Mammoth Cave Dairy Auction, Inc. is suspended as a registrant under the Act for a period of twenty-one (21) days.

Respondent Kenneth F. Deputy shall not be registered to engage in business as a dealer or market agency during the period of the Corporate Respondent's suspension, and pursuant to § 303 of the Act (7 U.S.C. § 203) is prohibited from operating as a dealer or market agency without

being registered.

Respondents Mammoth Cave Dairy Auction, Inc. and Kenneth F. Deputy are assessed, jointly and severally, a civil penalty in the amount of Thirty Thousand Dollars (\$30,000.00).

Respondent Michael Allen Hatcher is suspended as a registrant for a period of thirty-five (35) days.

Respondent Mammoth Cave Dairy Auction, Inc. is prohibited, pursuant to section 201.81 of the regulations (9 C.F.R. § 201.81), from employing Respondent Michael Allen Hatcher, during the 14 day period between the end of the 21 day period of Respondent Mammoth Cave's suspension and the end of 35 day period of Respondent Hatcher's suspension..

Respondent Michael Allen Hatcher is assessed a civil penalty in the amount of Sixty-six Thousand Dollars (\$66,000.00).

The provisions of this Order shall become effective on July 1, 2002.

Copies of this decision shall be served upon the parties.

MAMMOTH CAVE DAIRY AUCTION, INC.

Respondent

By

*Kenneth F. Deputy*  
KENNETH F. DEPUTY

President

*Kenneth F. Deputy*  
KENNETH F. DEPUTY

Respondent

*Michael Hatcher*  
MICHAEL ALLEN HATCHER

Respondent

*Eric Paul*  
ERIC PAUL

Attorney for Complainant

Issued this 26<sup>th</sup> day of June

*Jane Hunt*  
Administrative Law Judge

Jill S. Clifton

FOR

*Barry R. Richardson*  
*att'y for Respondents*