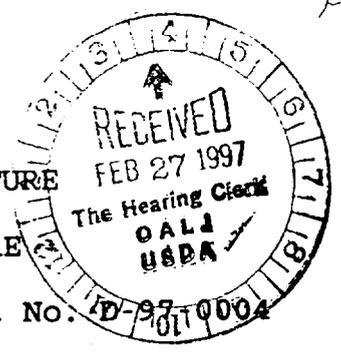


UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE



In re: ) P. & S. Docket No. 10-97-0004  
Kenneth W. Swiney, )  
)  
)  
Respondent ) Decision

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 (GIPSA), United States Department of Agriculture, alleging that the Respondent wilfully violated the Act. The decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (C.F.R. § 1.138).

The 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.

The Complainant agrees to the entry of this decision.

1. Kenneth W. Swiney, hereinafter referred to as Respondent is an individual whose business mailing address is Route 2, Box 110, Bunker, Missouri 63629.

2. Respondent is and at all times material herein was:

(a) Engaged in the business of buying and selling livestock in commerce for his own account or the account of others, and buying livestock in commerce on a commission basis; and

(b) Registered with the Secretary of Agriculture in a partnership with his father, Kenneth D. Swiney, as a dealer to buy and sell livestock in commerce for his own account or for the account of others and as a market agency to buy livestock in commerce on a commission basis.

#### Conclusions

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

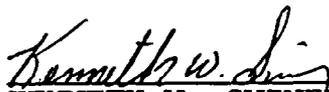
#### Order

Respondent Kenneth W. Swiney, his agents and employees, directly, as a partner with Kenneth D. Swiney, or through any corporate or other device, in connection with his activities subject to the Packers and Stockyards Act, shall cease and desist from:

1. Failing to pay, when due, the full purchase price of livestock.

In accordance with section 312 of the Act (7 U.S.C. § 213) Respondent is assessed a civil penalty in the amount of Four Thousand Five Hundred Dollars (\$4,500.00).

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

  
\_\_\_\_\_  
KENNETH W. SWINEY  
Respondent

  
\_\_\_\_\_  
ERIC PAUL  
Attorney for Complainant

Issued this 27th day of February 1997

  
\_\_\_\_\_  
Administrative Law Judge