

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

)	P. & S. Docket No. R-97-01
)	
Tina Livestock Sales, Inc.,)	Complainant,
)	
v.)	
)	
)	
Travis Witt,)	Respondent.
)	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 January 24, 1996, alleging that on November 29, 1995, and December 6, 1995, respondent, purchased from complainant cattle in the amount of \$23,380.10 and \$23,921.08 respectively, for WW Cattle Company and that complainant has not been paid for these livestock purchases. The total amount claimed by complainant was \$47,301.18.

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 respondent on August 30, 1996. A copy of the investigative report was served on complainant.

Findings of Fact

1. Complainant, Tina Livestock Sales, Inc., P.O. Box 40, Tina, Missouri 64682 (hereinafter complainant) was at all times material herein, was engaged in the business of a market agency selling livestock on a commission basis and was so registered with the Secretary.

2. Respondent Travis Witt, 510 East 16th Street, Falls City, Nebraska 683551 (hereinafter respondent) at all times material herein, purchased livestock in commerce on a commission basis and was not registered in any capacity with the Secretary.
3. Leonard Witt d/b/a WW Cattle Company, R. R. 1, Box 169, Reserve, Kansas at all times material herein was engaged in business as a dealer and market agency buying livestock in commerce and was so registered with the Secretary.
4. Leonard Witt is the father of Travis Witt.
5. Falls City Sale Barn, Inc., Box 296, Falls City, Nebraska 68355 at all times material herein, was registered with the Secretary as a market agency selling on commission.
6. Leonard Witt at all times material herein was Vice President of Falls City Sale Barn, Inc.
7. On or about November 11, 1995 and December 6, 1995, respondent purchased, from complainant, 84 cattle in the amount of \$23,380.10 and 69 cattle in the amount of \$23,921.08 in the total amount of \$47,301.18.
8. On December 3, 1995 and December 10, 1995, respectively Leonard Witt d/b/a WW Cattle Company issued to complainant check no. 1401 in the amount of \$23,380.10 and check no. 1359 in the amount of \$23,921.08, respectively, in purported payment for the livestock purchased by respondent on November 11, and December 6, 1995. Leonard Witt stopped payment on each of these two checks.
9. Checks nos. 1401 and 1359 on which payment was stopped, were replaced by check no. 10749 in the amount of \$23,921.08 and check no. 10742 in the amount of \$23,380.10 respectively, each drawn on the bank account of Falls City Sale Barn. Each of these replacement checks were returned to complainant on two different occasions, unpaid, due to insufficient funds.

10. Complainant filed a claim in the amount of \$47,301.18 against the surety bond of Leonard Witt and on or about July 15, 1996, received \$19,561.92 as a pro-rata share of the bond proceeds, leaving unpaid \$27,739.26.
11. The written complaint was filed on January 1996 which was within 90 days of the dates of the two transactions on which the complaint is based.
12. On September 17, respondent filed an answer in which he admits owing complainant the remaining \$27,739.26.

Conclusions

Based on the facts of this matter as found above and on the answer filed by respondent, we find respondent liable to complainant for reparation in the remaining unpaid amount of \$27,739.26 with interest.

Order

Within 30 days of the date of this order, respondent, Travis Witt shall pay to complainant, Tina Livestock Sales, Inc., \$27,739.26 together with interest thereon at the rate of ten per cent per annum from December 15, 1995 until paid.

Copies of this order shall be served on the parties.

Done at Washington, D.C.

NOV 12 1996

this ___ day of _____

WILLIAM G. JENSON

Judicial Officer

Office of the Secretary