

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:) P. & S. Docket No. D-02-0006
)
Weikert's Livestock, Inc., and)
Todd D. Weikert)
)
Respondents) Decision
)
)

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. §181 et. seq.) by a complaint filed by the Deputy Administrator, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that the Respondents willfully violated the Act and the regulations issued thereunder. This decision is entered pursuant to the consent decision provisions set forth in section 1.138 of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary, (7 C.F.R. §1.138), hereinafter referred to as the "Rules of Practice."

The 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.

The Complainant agrees to the entry of this decision.

Findings of Fact

(1) Weikert's Livestock, Inc., hereinafter "Respondent Weikert's Livestock," is a corporation, incorporated under the laws of the Commonwealth of Pennsylvania, the mailing address of which is P.O. Box 707, Fairfield, Pennsylvania 17320. Respondent Weikert's Livestock, at all times material herein was a corporation:

- (a) Engaged in the business of a dealer buying and selling livestock in commerce for its own account and the accounts of others; and
- (b) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce, and as a market agency buying on commission.

(2) Todd D. Weikert, is an individual whose business mailing address is P.O. Box 707, Fairfield, Pennsylvania 17320. Respondent Todd D. Weikert is, and at all times material herein was:

- (a) Vice-President of Respondent Weikert's Livestock;
- (b) Engaged in the business of buying and selling livestock in commerce as the agent or employee of Respondent Weikert's Livestock;
- (c) Responsible for the direction, management and control of the day-to-day operations of Respondent Weikert's Livestock; and
- (d) A dealer within the meaning of and subject to the provisions of the Act.

Conclusions

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

Order

Respondents Todd D. Weikert and Weikert's Livestock, Inc., and their agents and employees, directly or through any corporate or other device, in connection with their activities subject to the Packers and Stockyards Act, shall cease and desist from:

1. Failing to pay the full purchase price of livestock;
2. Failing to pay, when due, the full purchase price of livestock;
3. Issuing checks in payment for livestock purchases without maintaining sufficient funds on deposit and available in the account upon which such checks were drawn to pay such checks when presented;
4. Engaging in business in any capacity for which registration and bonding is required under the Packers and Stockyards Act, as amended and supplemented, and the regulations, without filing an adequate bond or its equivalent, as required by the Act and the regulations; and
5. Engaging in any activity subject to the Act while Respondents' financial condition does not meet the requirements of the Act.

Respondents Weikert's Livestock, Inc. and Todd D. Weikert are hereby suspended as registrants under the Act for a period of ten (10) years. However, these suspensions shall be held in abeyance so long as conditions detailed in the Understanding With Regard to the Consent Decision (hereinafter referred to as the "Understanding") continue to be met.

If any of the conditions detailed in the Understanding are not met, Respondents and Complainant agree that a supplemental order will be entered upon motion of Complainant,

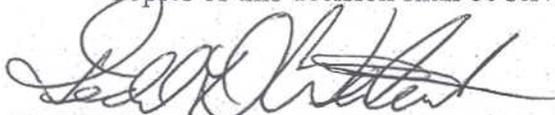
whereupon the full ten (10) year suspensions of Weikert's Livestock, Inc. and Todd D. Weikert will immediately go into effect without further proceedings.

In consenting to the issuance of the supplemental order upon breach of the Understanding, Respondents explicitly waive response to Complainant's motion for supplemental order, explicitly waive any further process or procedure in this matter, and agree that a supplemental order effecting the ten (10) year suspensions may be issued by the Administrative Law Judge.

Upon demonstration satisfactory to Packers and Stockyards Programs of GIPSA that the terms of the Understanding have been met in full, and upon the motion of Complainant, a supplemental order terminating the suspensions will be issued.

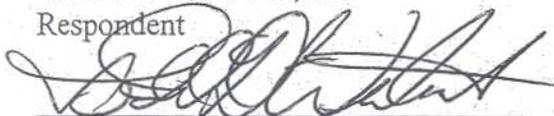
The provisions of this order shall become effective on the sixth day after service of this order on the Respondents.

Copies of this decision shall be served upon the parties.



Weikert's Livestock, Inc.
Respondent

V.P.
Title

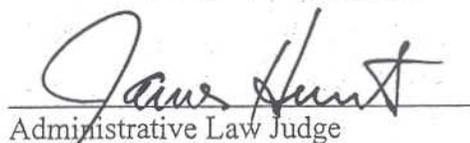


Todd D. Weikert



David A. Richman
Attorney for Complainant

Issued this 19th day of September 2002



Administrative Law Judge