

UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re:)	P. & S. Docket No. D-06-0006
Frey Cattle Company, Inc.,)	
and Alan Halfmann,)	
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 Administrator, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that the Respondents have 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. Respondent, Frey Cattle Company, Inc., hereinafter referred to as the Corporate Respondent, is a Texas corporation whose business mailing address is 14102 Highway 83 South, Ballinger, TX 76821.

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

(a) Engaged in the business of a dealer 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 and as a market agency to buy livestock in commerce on commission.

3. Respondent Alan Halfmann, hereinafter the Individual Respondent, is an individual whose business mailing address is 14102 Highway 83 South, Ballinger, TX 76821.

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

(a) Engaged in the business of a dealer buying and selling livestock in commerce for the account of the Corporate Respondent;

(b) Secretary/Treasurer and 45 percent owner of the Corporate Respondent, and the person who directed, managed and controlled the operations of the Corporate Respondent;

(c) A dealer and a market agency within the meaning of these terms under the Act and subject to the Act; and

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

Conclusions

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

Order

Respondents Frey Cattle Company, Inc., and Alan Halfmann, 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. Selling livestock on false or arbitrarily increased 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;

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;
3. Issuing sales invoices or other records containing false or arbitrarily increased livestock weights;
4. Creating false scale tickets; and
5. Failing to properly use and complete scale tickets in connection with the weighing of livestock.

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondents Frey Cattle Company, Inc., and Alan Halfmann are jointly and severally assessed a civil penalty of \$35,000.00.

Respondents Frey Cattle Company, Inc., and Alan Halfmann, in connection with their operations subject to the Packers and Stockyards Act, shall keep and maintain such accounts, records, and memoranda as fully and correctly disclose their transactions subject to the Act and the regulations. Respondents shall prepare and keep (1) purchase invoices for all purchases of livestock from auction markets; (2) consecutively numbered scale tickets for animals taken from inventory pens and added to shipments being assembled, and for all livestock being sold on other than a transfer of original livestock purchase weights; (3) scale tickets with the date of weighing, the name or initials of the weigher, the kind of livestock weighed, the name of the customer, and the true and accurate weight recorded to the nearest five pounds, the smallest weight graduation permitted by Respondents' livestock scale; and (4) notations on appropriate sales records to

explain all customer adjustments to invoiced livestock sales prices.

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

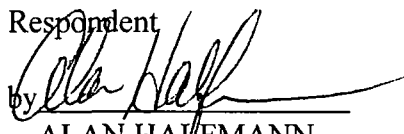
Copies of this decision shall be served upon the parties.



ALAN HALFMANN
Respondent

FREY CATTLE COMPANY, INC.

Respondent

by 

ALAN HALFMANN
Secretary/Treasurer



ERIC PAUL
Attorney for Complainant

Issued this 13th day of May 2006


Administrative Law Judge