

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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FILE

In re:)
) P&S Docket No. D-12-0105
)
 Tony Wells d/b/a)
 Tony Wells Livestock,)
)
 Respondent) Consent Decision and Order

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 Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture (USDA), alleging that respondent Tony Wells, doing business as Tony Wells Livestock, violated the Act. This decision is entered pursuant to the consent decision provision of the rules of practice applicable to this proceeding (7 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.

Findings of Fact

1. Tony Wells, doing business as Tony Wells Livestock, referred to herein as the respondent, is an individual. The respondent's mailing address is P.O. Box 54, Wilmar, AR 71675.
2. The respondent was at all times material herein:
 - (a) Engaged in the business of a livestock dealer buying and selling livestock in commerce for his own account; and
 - (b) Registered with the Secretary of Agriculture as a livestock dealer buying and selling livestock in commerce.

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 Tony Wells, his agents and employees, directly or indirectly through any corporate or other device, shall cease and desist from:

- (1) Purchasing livestock and failing to pay for such livestock purchases the full amount of the purchase price for livestock within the time period required by the Act, as required by section 409 of the Act (7 U.S.C. § 228b) and section 201.43 of the regulations (9 C.F.R. § 201.43);

- (2) Issuing checks in payment for livestock without having and maintaining sufficient funds on deposit and available in the accounts upon which they are drawn to pay such checks when presented; and
- (3) Engaging in business in any capacity for which registration and bonding are required under the Packers and Stockyards Act, and regulations promulgated thereunder, without properly registering and without filing and maintaining an adequate bond or its equivalent, in accordance with the Act.

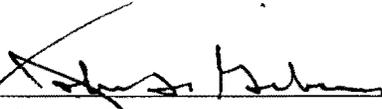
Respondent is prohibited from engaging in business in any capacity for which registration and bonding is required under the Act, and the promulgations thereunder, for a period of eighteen (18) months and continuing thereafter until the respondent demonstrates to the Packers and Stockyards Program that he has paid the \$10,000.00 civil penalty as set forth in this Consent Decision and in the terms of the "Understanding Regarding Consent Decision" entered between the parties; is registered and bonded in accordance with the Act, regulations promulgated thereunder, and program requirements; and is otherwise in compliance with the Act.

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), respondent is assessed a civil penalty in the amount of thirty thousand dollars (\$30,000.00). Twenty thousand dollars (\$20,000.00) of this civil penalty will be held in abeyance, provided that respondent complies with the cease and desist provisions (1)-(3) set forth above, the 18-month suspension, and the payment of \$10,000.00 as set forth in this Consent Decision and the terms of the "Understanding Regarding Consent Decision" entered between the parties. The \$20,000.00 held in abeyance will

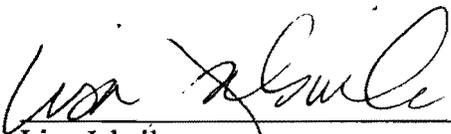
be set aside upon successful compliance with the terms of this Order and the "Understanding Regarding Consent Decision."

This Order shall have the same force and effect as if entered after full hearing. The provisions of this Order shall become final and effective on the sixth (6th) day after service of this consent decision and order on the respondent.

Copies of this decision shall be served upon the parties.



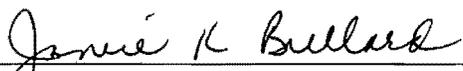
John F. Gibson
Attorney for Respondent



Lisa Jabaily
Attorney for Complainant

Done at Washington, D.C.

this 4th day of April, 2012



Administrative Law Judge
JANICE K. BULLARD