

J. Butler
Alan C. FILED 01/04

FAX 202-690-1539

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

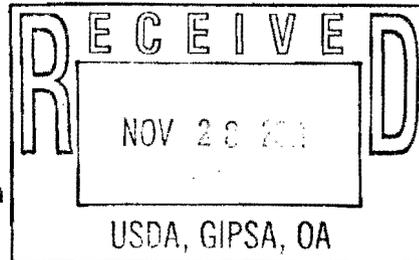
In re:

) P & S Docket No. D-11-0132

)
) Steve (Bubba) Kemp, d/b/a
) Kemp Cattle,

)
) Respondent

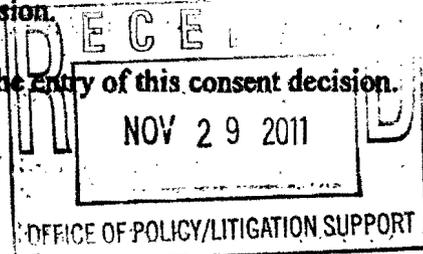
) Consent Decision



This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.) (Act), by a Complaint filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that the Respondent willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 et seq.) (Regulations). This consent decision is entered pursuant to the consent decision provision of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statues (7 C.F.R. § 1.138) (Rules of Practice).

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 consent decision.

Complainant agrees to the entry of this consent decision.



CC: Butler

Findings of Fact

1. Steve (Bubba) Kemp, d/b/a Kemp Cattle, referred to herein as the Respondent, is an individual whose business mailing address is 5300 Friendship Road, Tolar, Texas 76476.
2. Respondent is, and at all times material herein was:
 - a. Engaged in the business of buying and selling livestock in commerce as a dealer and buying livestock on a commission basis in commerce as a market agency; and
 - b. Not registered with the Secretary of Agriculture as a dealer or market agency;
 - c. Operating as a market agency and dealer within the jurisdiction of the Secretary and subject to the provisions of the Act.

Conclusions

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

Order

Respondent Steve (Bubba) Kemp, d/b/a Kemp Cattle, his agents and employees, directly, 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. Engaging in operations subject to the Act and Regulations without being properly registered with GIPSA and maintaining an adequate bond or bond equivalent;
2. Purchasing livestock and failing to pay for such livestock purchases within the time period required by the Act;
3. 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.

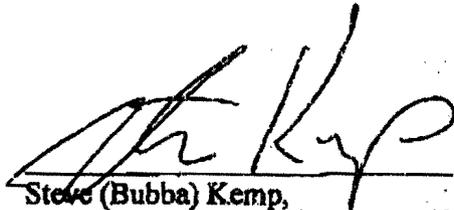
Respondent shall keep accounts, records and memoranda that fully and correctly disclose all transactions involved in his business. Specifically, Respondent shall keep and maintain copies of purchase and sales invoices, contracts or credit agreements, dealer records, bank statements, and buying recaps.

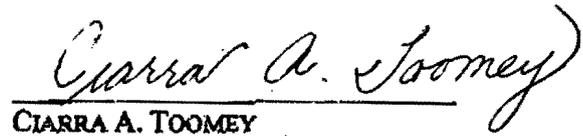
Pursuant to section 312(b) of the Act (7 U.S.C. § 213(b)), Respondent Steve (Bubba) Kemp, d/b/a Kemp Cattle is assessed a civil penalty in the amount of ninety thousand dollars (\$90,000). The civil penalty shall become due and payable 730 days after the effective date of this Order. At Respondent's option, the civil penalty amount may be offset dollar-for-dollar by restitution payments to any of the affected livestock sellers listed in the Complaint. For example, if Respondent makes \$50,000 in restitution payments to the affected livestock sellers listed in the Complaint before the 730-day period expires, then the civil penalty amount will be reduced to \$40,000.

The civil penalty payment and proof of any offsetting restitution payments to affected livestock sellers shall be sent to S. Brett Offutt, Director of Policy and Litigation Division, Packers and Stockyards Program at the following address: 1400 Independence

Ave., Washington, DC 20250-3646. Proof of restitution payments may include, but is not limited to, a statement from the bank holding an account created by Respondent to pay the livestock sellers or an affidavit or declaration from Respondent or an administrator tasked with managing payments to livestock sellers. Such statement, affidavit, or declaration should reflect each seller's name, the payment check numbers, the check amounts, and the dates that each check was cashed. In its sole discretion, the Packers and Stockyards Program may verify any offsetting restitution payments claimed by Respondent. Payment of the civil penalty shall be made in the form of a check or money order made payable to the "Treasurer of the United States." Respondent is directed to note the docket number of the case on the civil penalty payment instrument.

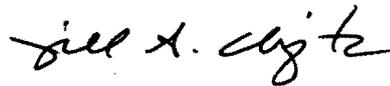
This Order shall become effective five (5) days after entry.


Steve (Bubba) Kemp,
d/b/a Kemp Cattle
Respondent


CIARRA A. TOOMEY
Attorney for Complainant

Issued in Washington D.C.

this 25 day of NOV, 2011



ADMINISTRATIVE LAW JUDGE

Janice K. Bullard

for