

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: ) P & S Docket No. D-04-0007  
)  
Aire Alto Cattle, Corp., and )  
Susan C.E. Carter, )  
)  
Respondent ) Consent 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 Deputy Administrator, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture alleging that Respondents willfully violated the Act. This Decision is entered pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted By the Secretary Under Various Statutes (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. Aire Alto Cattle, Corp., referred to herein as "Respondent Aire Alto," is a corporation organized and existing under the laws of the State of New Mexico. Respondent Aire Alto's business mailing address is 1120-A County Road G, Clovis, New Mexico 88101.

2. Respondent Aire Alto, 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.

3. Susan C. E. Carter, hereinafter referred to as the "Respondent Carter," is an individual whose mailing address is 1120-A County Road G, Clovis, New Mexico 88101.

4. Respondent Carter, at all times material herein, was:

(a) The vice-president, secretary, director, 25 percent owner, and the most highly compensated employee of Respondent Aire Alto;

(b) Engaged in the business of a dealer, buying and selling livestock in commerce, as an employee and agent to Respondent Aire Alto;

(c) Responsible for the day-to-day direction, management and control of the Respondent Aire Alto's dealer operations; and

(d) A dealer within the meaning of and subject to 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 Aire Alto Cattle, Corp., and Susan C. E. Carter, their agents and employees, directly or through any corporate or other device, in connection with activities subject to the Packers and Stockyards Act, shall cease and desist from:

1. Issuing checks in payment for livestock purchases without maintaining sufficient funds on deposit and available in the account upon which the checks are drawn to pay such checks when presented;

2. Failing to pay, when due, the full purchase price of livestock; and

3. Failing to pay the full purchase price of livestock.

Respondent Aire Alto is hereby suspended as a registrant under the Act for a period of five years. Provided, however, that upon application to Packers and Stockyards Programs a supplemental order may be issued terminating the suspension of Respondent Aire Alto at any time after 630 days upon demonstration of circumstances warranting such termination. Respondent Carter agrees that she will not register or apply for registration under the Act in her own name, or in any other manner, within the period during which this order of suspension is in effect for Respondent Aire Alto's registration under the Act. Respondent Carter has been advised by counsel and understands that operating as a market agency or dealer subject to the Act without being registered is a violation of Section 303 of the Act (7 U.S.C. § 203).

The provisions of this order shall become effective on the sixth (6th) day after service of this order on Respondent.

Copies of this decision and order shall be served upon the parties.

AIRE ALTO CATTLE, CORP.  
Respondent

By:

  
VP

Title

  
SUSAN C.E. CARTER  
Respondent

  
CHARLES E. SPICKNALL  
Attorney for Complainant

Issued in Washington D.C.

this 15th day of September 2004

  
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Administrative Law Judge