

**IN THE UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE**

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|-------------------------------|---|----------------------|
| In re: |) | |
| |) | |
| COLBY LIVESTOCK AUCTION, LLC, |) | P&S Docket 20-J-0024 |
| |) | 20-J-0025 |
| and |) | |
| |) | |
| LELAND WILSON, |) | |
| |) | |
| Respondents. |) | Consent Decision |

REC'D - USDA/OALJ/OHC
2020 JUN 9 AM 11:35

This proceeding arises under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*) (Packers and Stockyards Act) and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 *et seq.*) (Regulations). On December 17, 2019, a Complaint was filed by the Deputy Administrator, Fair Trade Practices Program (Packers and Stockyards Division), Agricultural Marketing Service, United States Department of Agriculture, alleging that the Respondents willfully violated sections of the Packers and Stockyards Act and its attendant regulations. Complainant and Respondents have agreed to entry of this Decision, without hearing or further procedure, 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) (Rules of Practice).

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, waive all rights to seek judicial review and otherwise challenge or contest the validity of this Consent Decision and Order, including waiving challenges to the Administrative Law Judge's authority to enter this Consent Decision and Order under the Administrative Procedure Act and the Constitution of the United States, and waive any action against the United States Department of Agriculture under the

Equal Access to Justice Act of 1980 (5 U.S.C. § 504, *et seq.*) for fees and other expenses incurred by Respondents in connection with this proceeding or any action against any USDA employee in their individual capacity.

FINDINGS OF FACT

(1) Colby Livestock Auction, LLC (Respondent Corporation) is a business organized under the laws of the State of Kansas, with a mailing address of 125 S. Country Club Drive, Colby, Kansas 67701. Respondent Colby Livestock Auction, LLC's registered agent for service of process in the State of Kansas is Leland R. Wilson, at the address listed above.

(2) Respondent Colby Livestock Auction, LLC is, and at all times material herein was:

- (a) Engaged in the business of conducting and operating a posted stockyard subject to the provisions of the Act;
- (b) Engaged in the business of a market agency buying and selling consigned livestock on a commission basis at the stockyard; and
- (c) Registered with the Secretary of Agriculture as a market agency buying and selling livestock in commerce on a commission basis.

(3) Respondent Leland R. Wilson is an individual whose current address is in the (b) (6) His address will not be stated in the complaint to protect Respondent's privacy but has been provided to the Hearing Clerk, United States Department of Agriculture.

- (4) Respondent Leland R. Wilson is, and at all times material herein was,
- (a) Member of the Leland R. and Roxy K. Wilson Trust, sole member of Colby Livestock Auction, LLC;

- (b) Manager and Registered Agent of Respondent Colby Livestock Auction, LLC;
- (c) Responsible for the day-to-day direction, management, and control of Respondent Colby Livestock Auction, LLC; and
- (d) A market agency within the meaning of and subject to the provisions of the Act.

CONCLUSIONS

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

ORDER

Respondents, their agents and employees, successors and assigns, directly or through any device, in connection with Respondents' activities subject to the Packers and Stockyards Act, shall cease and desist from failing to maintain Respondent Colby Livestock Auction, LLC's custodial account and/or operating with a custodial shortage in violation of sections 307 and 312 of the Act (7 U.S.C. §§ 208 and 213(a)) and section 201.42 of the regulations (9 C.F.R. § 201.42).

Further, in accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondents are hereby assessed a civil penalty of \$3,750, which is due and payable upon the final and effective date of this consent decision. Respondents shall pay by check or money order payable to the U.S. Treasury, indicating that the payment is in reference to P&S Docket No. 20-J-0024 and 20-J-0025, and sent to:

USDA-AMS-FTPP-PSD
P.O. Box 979064
St. Louis, Missouri 63197-9000

This Order shall have the same force and effect as if entered after full hearing. Copies of this Order shall be served upon Respondents. The provisions of this Order shall become final and effective upon the sixth (6th) day after service of this Consent Decision and Order.

[Redacted]

Cody Livestock Auction, L.L.C.
Respondent

[Redacted]

Jera Seales
Attorney for Respondents

[Redacted]

Leiana Wilson
Respondent

[Redacted]

David W. Schaar
Attorney for Complainant

Done at Washington, DC
This 9 day of JUN, 2020

[Redacted]

Administrative Law Judge

Jill S. Clifton