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UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

REC'D - USDA/OALJ/HCO  
2021 OCT 18 8:30 AM

|                                   |   |                            |
|-----------------------------------|---|----------------------------|
| In re:                            | ) |                            |
|                                   | ) | P&S-Docket No. D-21-J-0020 |
| Tommy Baxley,                     | ) |                            |
| d/b/a Tri State Cattle Marketing, | ) |                            |
|                                   | ) |                            |
| Respondent                        | ) | Consent Decision and Order |

This proceeding was initiated under the Packers and Stockyards Act, 1921, as amended and supplemented, 7 U.S.C. § 181 *et. seq.* (Act), by a Complaint filed on March 5, 2021, by the Deputy Administrator, Fair Trade Practices Program, Agricultural Marketing Service, United States Department of Agriculture (Complainant). This Complaint alleged that Tommy Baxley, doing business as Tri State Cattle Marketing (Respondent), willfully violated the Act and the regulations promulgated thereunder, 9 C.F.R. § 201.1 *et. seq.* This Consent Decision and Order is entered into pursuant to the Rules of Practice applicable to this proceeding. 7 C.F.R. § 1.138.

ADMISSIONS AND CONSENTS

Respondent admits the allegations in the Complaint and the findings of fact in this Consent Decision and Order. Respondent specifically admits the jurisdictional allegations in the Complaint and that the U.S. Department of Agriculture (USDA) has jurisdiction over this matter. Respondent and Complainant agree to the issuance of this Consent Decision and Order without further procedure.

Respondent waives oral hearing and further procedure and waives all rights to seek judicial review and otherwise contest the validity of this Consent Decision and Order under the Administrative Procedure Act or any other federal law. Respondent specifically waives any action against USDA under the Equal Access to Justice Act of 1980, 5 U.S.C. § 504 *et. seq.*, for

fees and other expenses incurred by Respondent in connection with this proceeding or any action against a USDA employee in their individual capacity.

#### FINDINGS OF FACT

1. Respondent is an individual with a mailing address of record which will not be repeated here.

2. Respondent was, at all times material to this Consent Decision and Order, and as specifically described in the Complaint:

- a) Engaged in the business of a dealer buying and selling livestock in commerce for his own account; and
- b) Engaged in the business of a market agency buying livestock on a commission basis; and
- c) Registered with the Secretary of Agriculture as a market agency to buy livestock on a commission basis.

3. In four (4) transactions, Respondent failed to pay a total of \$347,108.05, when due, for the full purchase price of livestock. As of the date of the signing of this Consent Decision and Order, this amount remains unpaid.

#### CONCLUSIONS OF LAW

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

#### ORDER

Respondent, his agents and employees, directly or through any corporate or other device, in connection with his operations subject to the Act, shall cease and desist from:

- 1. Failing to pay, when due, the full purchase price of livestock;

2. Failing to pay the full purchase price of livestock; and
3. Issuing checks in payment for livestock purchases that are returned unpaid by the bank upon which they are drawn, because Respondent does not have and maintain sufficient funds on deposit and available in the account upon which such checks are drawn to pay the checks when presented.

Pursuant to 7 U.S.C. § 204, Respondent is suspended as a registrant under the Act for five years from the effective date of this Consent Decision and Order. During this suspension, Respondent is prohibited from operating in any capacity for which registration and bond is required under the Act. This order may be modified to reduce said suspension to three years and nine months upon application to the Packers and Stockyards Division and upon demonstration of full payment of the civil penalty and the \$347,108.05 owed to livestock sellers resulting from Respondent's failure to pay for livestock, as alleged in the Complaint.

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 three thousand dollars (\$3,000) to be paid using Pay.gov at <https://www.pay.gov> in accordance with the instructions included in Exhibit A. Payments shall be made in monthly installments of, at minimum, \$125.00 starting 30 days after August 31, 2022 and continuing until the three thousand dollar (\$3,000) civil penalty is paid in full.

This Order shall have the same force and effect as if entered after a full hearing. The provisions of this Order shall become effective on the day after service of this order on the Respondent.

Copies of this Consent Decision and Order shall be served on the Respondent and the Complainant.



AGREED TO BY:



Tommy Baxley  
Respondent

CHLOE  
BOURNE

Digitally signed by CHLOE  
BOURNE

Date: 2021.10.14 17:32:37  
-06'00'

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Chloe Bourne  
Attorney for Complainant

Done at Washington, D.C.

This 18 day of October, 2021

[Redacted Signature]



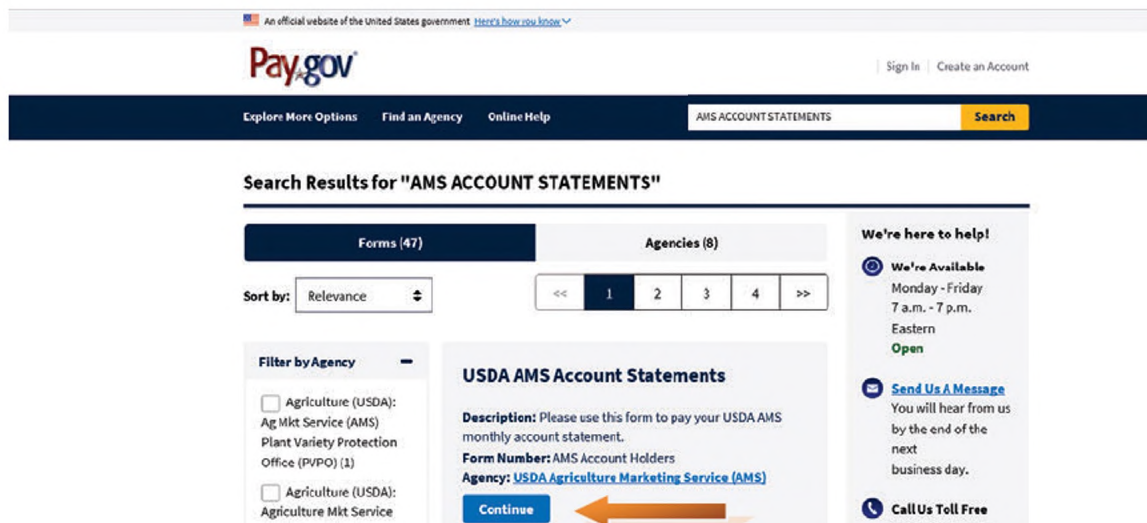
To make an online payment through PAY.GOV payment, complete the following:

(1) Go to <https://www.pay.gov>

(2) Click in the **Search** box and type “AMS Account Statements”.



(3) Click “Continue” USDA, AMS Account Statements.



(4) The screen shows accepted payment methods. Click on “Continue to the Form”.

**NOTE: The maximum dollar amount allowed for Credit Card payments is \$24,999.99. The maximum dollar amounts allowed for PayPal and Amazon is \$10,000. There is no limit for Bank Account (ACH).**

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\*Point of Contact Name:

\*Phone Number:  Ext:



- (6) Under “Account Number”, enter the case number and the dollar amount in the “Amount” column

Please note a vendor account number for each individual debt you wish to pay. You may pay up to five different accounts.

| Account Number(s): | Amount(s): |
|--------------------|------------|
| CASE #1            | \$ 100.00  |
|                    | \$         |
|                    | \$         |
|                    | \$         |
|                    | \$         |
| Total:             | \$ 100.00  |

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\* Email Address:

\* Confirm Email Address:

CC:

*You may enter multiple email addresses in this field. Separate email addresses with a comma.*

Once the e-mail addresses are entered, click “Submit Payment”