

10
2012

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0551

In re: Jeremy Emerson,
Respondent

Default Decision and Order

Preliminary Statement

This disciplinary proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*), by a complaint filed on July 26, 2012, by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that Respondent Jeremy Emerson willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 *et seq.*).

The Complaint and a copy of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130) (rules of practice) were served upon respondent by certified mail on August 2, 2012. Respondent was informed in the complaint and the accompanying letter of service that an answer should be filed pursuant to the rules of practice and that failure to answer would constitute an admission of all the material allegations contained in the complaint and a waiver of hearing.

Respondent failed to file an answer within the time period prescribed by the rules of practice and the following Findings of Fact, Conclusions of Law and Order will be entered pursuant to section 1.139 of the rules of practice applicable to this proceeding (7 C.F.R. § 1.139).

Findings of Fact

1. Jeremy Emerson is an individual residing in Checotah, Oklahoma.
2. Respondent was at all times material herein was:
 - a. Engaged in the business of a dealer buying and selling livestock in commerce.
 - b. Not registered with the Secretary of Agriculture as a dealer buying and selling livestock in commerce.
3. On May 20, 2010, the Grain Inspection, Packers & Stockyards Administration sent respondent a Notice of Default notifying him of his obligation to file an application for registration and to secure a bond if he wished to engage in the business of buying and selling livestock in interstate commerce. The Notice of Default also informed respondent that engaging in business in any capacity that is subject to the Act without complying with the registration provisions of the Act and without filing an adequate bond or bond equivalent is a violation of the Act and regulations and could subject him to disciplinary action.
4. During the period from May 1, 2010, through September 13, 2011, in twenty three transactions involving his purchase of a total of 666 head of livestock from MCCS, Inc. d/b/a Leflore County Livestock Auction in Wister, Oklahoma (hereinafter, Leflore County Livestock Auction), Poor Boy Livestock Auction in Wister, Oklahoma, and Checotah Stockyards in Checotah, Oklahoma, for a total purchase price of \$56,284.68, respondent engaged in the business of a dealer buying and selling livestock in commerce without being registered with the Secretary and maintaining an adequate bond or bond equivalent.
5. In five transactions referenced above, Respondent issued checks in the amount of \$12,784.06 in payment for livestock purchased from Leflore County Livestock Auction and Checotah Stockyards, which were returned unpaid by the bank because respondent failed to have

and maintain sufficient funds on deposit and available in the account upon which such checks were drawn to pay such checks when presented for payment.

6. By issuing four of the insufficient funds checks referenced above, Respondent also failed to pay, when due, the full amount of the livestock purchase price.

7. In six transactions all involving livestock purchases from Leflore County Livestock Auction, Respondent failed to pay the full purchase price of the livestock. As of the date of the filing of the complaint, respondent had failed to pay Leflore County Livestock Auction \$6,442.47 for these purchases.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.

2. Respondent willfully violated section 312(a) of the Act (7 U.S.C. § 213(a)), and sections 201.29 and 201.30 of the regulations (9 C.F.R. §§ 201.29, 201.30).

3. Respondent willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a) and 228b) and section 201.43 of the regulations (9 C.F.R. § 201.43).

Order

1. Jeremy Emerson, his agents and employees, directly or indirectly through any corporate or other device, in connection with his operations subject to the Packers and Stockyards Act, shall cease and desist from:

a. Engaging in business in any capacity for which bonding is required under the Packers and Stockyards Act and the regulations promulgated thereunder without first becoming properly registered under the Act as required by section 201.10(a) of the regulations (9 C.F.R. § 201.10(a)), and without filing and maintaining an adequate bond or its equivalent as required by the Act and by sections 201.29 and 201.30 of the regulations (9 C.F.R. §§ 201.29 and 201.30).

b. Failing to pay the full amount of the purchase price for livestock before the close of the next business day following each purchase of livestock, as required by sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a) and 228b).

c. Failing to maintain sufficient funds on deposit and available in the account upon which payment checks are drawn to pay such checks when presented, as required by section 312(a) of the Act (7 U.S.C. § 213(a)).

2. Respondent, operating individually or through any corporate or other device, is prohibited from registering under the Act for a period of five (5) years, provided, however, that at any time after 180 days from the effective date of this order, upon application to the Packers & Stockyards Program, a supplemental order may be issued permitting Respondent to register upon demonstration by Respondent that all unpaid livestock sellers have been paid in full or that all unpaid livestock sellers have approved a plan for restitution, and that Respondent has bond coverage acceptable to GIPSA.

3. This decision shall become final and effective without further proceedings 35 days after the date of service upon respondent, unless it is appealed to the Judicial Officer by a party to the proceeding within 30 days pursuant to Section 1.145 of the rules of practice (7 C.F.R § 1.145).

Copies of this decision shall be served upon the parties.

October 25, 2012


Peter M. Davenport
Chief Administrative Law Judge