

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P. & S. Docket No. D-07-0188
)
 Danny L. Johnson,)
) Decision Without Hearing by Reason of
 Respondent) Default

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.) by a complaint filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that Respondent willfully violated the Act.

Copies of the complaint and the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 et seq.) (hereinafter, "Rules of Practice") were sent to Respondent by certified mail, but were returned by the Post Office as "unclaimed". Service was then made by regular mail, pursuant to section 1.147(c) of the Rules of Practice (7 C.F.R. § 1.147(c)), on November 9, 2007.

Respondent has failed to file an answer within 20 days from the date of service of the complaint, as prescribed in section 1.136(a) of the Rules of Practice (7 C.F.R. § 1.136(a)). Therefore, Respondent is in default and the allegations of the complaint are deemed to be admitted (7 C.F.R. § 1.136(c)). Accordingly, the material facts alleged in the complaint, which are admitted by Respondent's failure to file an answer, are adopted and set forth herein as findings of fact.

This Decision Without Hearing by Reason of Default is issued pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Danny L. Johnson (hereinafter, [Respondent]), is an individual whose business mailing address is P.O. Box 806, Glasgow, Kentucky 42142.

2. Respondent was at all times material herein:

(a) Engaged in the business of a dealer, buying and selling livestock for his own account, and as a market agency, buying livestock on commission; and

(b) Registered with the Secretary of Agriculture as a dealer, buying and selling livestock for his own account or the accounts of others, and as a market agency, buying livestock on commission.

3. As more fully set forth in paragraph III of the complaint, Respondent, in connection with his operations subject to the Act, purchased livestock but failed to make payment within the time period specified in the Act.

4. As more fully set forth in paragraph IV of the complaint, Respondent, in connection with his operations subject to the Act, issued checks in purported payment for the purchase of livestock, which checks were returned unpaid by the bank upon which they were drawn because Respondent did not have and maintain sufficient funds on deposit and available in the account upon which they were drawn to pay such checks when presented.

Conclusions

By reason of the facts alleged in Finding of Fact 3 herein, Respondent has willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a), 228b).

By reason of the facts alleged in Finding of Fact 4 herein, Respondent has willfully violated section 312(a) of the Act (7 U.S.C. § 213(a)).

Order

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

1. Failing to make payment for livestock purchases within the time period specified in the Act; and
2. Issuing checks in purported payment for the purchase of livestock without having and maintaining sufficient funds on deposit and available in the account upon which they are drawn to pay such checks when presented

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

Copies of this decision shall be served upon the parties.

Issued this 7th day of
January, 2008.

MARC R. HILLSON
Administrative Law Judge