

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

P. & S. Docket No. D-07-0190

In re: TIMOTHY R. BAUMERT,

Respondent

DECISION AND ORDER

Preliminary Statement

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, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that the Respondent wilfully violated the Act. Copies of the Complaint and the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes, (“Rules of Practice”)(7 C.F.R. § 1.130 et seq.) were sent to Respondent by the Hearing Clerk by certified mail transmittal dated September 12, 2007. Respondent signed a receipt acknowledging service of the Complaint, but failed to file an answer with the Hearing Clerk. By letter dated October 10, 2007, Respondent was notified that he had failed to file an answer with the Hearing Clerk within the allotted time.

Respondent has failed to file an answer within the time prescribed in the Rules of Practice, and the allegations of the Complaint, which are admitted by Respondent’s failure to file an answer (7 C.F.R. § 1.136(c)), are adopted and set forth herein as findings of fact.

Findings of Fact

1. Timothy R. Baumert, hereinafter Respondent, is an individual whose business

address is RR 1, Box 29, Dairy Rd., Dalmatia, PA 17017.

2. Respondent is and at all times material herein was:

(a) Engaged in the business of a dealer, buying and selling livestock for his own account; and

(b) Registered with the Secretary of Agriculture as a dealer, buying and selling livestock for his own account.

3. Respondent, on or about the dates and in the transactions set forth below, purchased livestock and failed to pay, within the time period required by the Act, the full purchase price of such livestock.

Livestock Seller	Purchase Date	Date Payment Due per § 409a	No. of Head	Livestock Amount	Sales Invoice Amount *	Payment Check Amount	Date issued	No. of Days Late
New Holland Sales Stables, Inc.	7/07/05	7/08/05	39	\$2,796.20	\$ 2,776.98	\$10,175.95	7/14/05	6
	7/11/05	7/12/05	103	\$7,412.70	<u>\$ 7,398.97</u> \$10,175.95			2
New Holland Sales Stables, Inc.	7/21/05	7/22/05	31	\$ 2,711.30	\$ 2,696.73	\$15,984.44	7/29/05	7
	7/25/05	7/26/05	39	\$12,591.80	\$12,562.34			3
	7/28/05	7/29/05	11	\$ 717.50	<u>\$ 725.37</u> \$15,984.44			0
New Holland Sales Stables, Inc.	8/04/05	8/05/05	38	\$ 2,460.85	\$ 2,452.91	\$22,914.09	8/11/05	6
	8/08/05	8/09/05	246	\$20,503.50	<u>\$20,461.18</u> \$22,914.09			2
Beegle's Livestock	7/13/05	7/14/05	28	\$1,859.66	\$1,859.66	\$3,540.38	7/21/05	7
	7/18/05	7/19/05	8	\$ 810.19	\$ 810.19			2
	7/20/05	7/21/05	7	\$ 570.53	<u>\$ 570.53</u> \$3,540.38			0
Beegle's Livestock	8/17/05	8/18/05	78	\$7,925.88	\$7,925.88	\$7,925.88	8/25/05	7
Shannon Banbury	7/13/05	7/14/05	544	\$41,584.23	\$42,128.23	\$20,000.00	7/21/05	7
	7/19/05	7/20/05	38	\$ 2,246.30	<u>\$ 2,284.30</u> \$44,412.53	<u>\$24,412.53</u> \$44,412.53	7/21/05	1
Shannon Banbury	8/17/05	8/18/05	489	\$35,931.79	\$36,601.79	\$36,601.79	8/24/05	6
Doug Boehne	7/25/05	7/26/05	101	\$7,535.70	\$5,327.70	\$5,327.70	8/2/05	7

Doug Boehne	7/25/05 7/31/05	7/26/05 8/01/05	10 237	\$1,067.42 \$15,088.87	\$ 1,067.42 <u>\$13,861.56</u> \$14,928.98	\$14,928.98	8/4/05	9 3
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* Adjustments have been made on some of these sales invoices for freight and for lamb check off credits.

4. In a certified letter dated February 2, 1998, served upon Respondent on February 6, 1998, Lawrence D. [redacted] payment for livestock purchases to a market seven to nine days after purchase instead of before the close of the next business day as required by section 409(a) of the Act.

5. In a certified letter dated June 6, 2003, served upon Respondent on June 12, 2003, Creig F. Stephen [redacted] livestock purchases to a market up to eleven days after purchase instead of before the close of the next business day as required by section 409 of the Act.

6. In a certified letter dated February 13, 2003, which was served on Respondent on February 21, 2003, Creig [redacted] needed to be increased to \$40,000.00.

7. In a certified letter dated January 4, 2004, served upon Respondent on January 10, 2004, John Roll [redacted] December 31, 2002, that Respondent's \$20,000.00 bond coverage needed to be increased to \$40,000.00.

8. In a certified letter dated November 22, 2005, served upon Respondent on November 25, 2005, Herple A. [redacted] ending December 31, 2004, that Respondent's \$20,000.00 bond coverage needed to be increased to \$45,000.00.

10. On April 14, 2006, Respondent signed an annual report for the year ending December 31, 2005, in which [redacted] regulations.

Conclusions

By reason of th

Order

2. Purchasing live

In accordance with section 312(b) of the Act (7 U.S.C. § 2

Respondent is suspended as a registrant until he has demonstrated that he has obtained and filed a bond or approval
and Stockyards Program.

the proceeding within 30 days pursuant to section 1.145 of the Rules of Practice (7 C.F.R. §
1.145).

Done at Washington, D.C.

August 13, 2008

**PETER M.
DAVENPORT**

ministrative Law Judge