

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	P. & S. Docket No. D-08-0158
)	
Steve Rose)	
)	
Respondent)	Decision Without Hearing
)	by Reason of Default

Preliminary Statement

This is a disciplinary proceeding under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*)(hereinafter referred to as the “Act”), instituted by a Complaint filed on July 31, 2008, by the Deputy Administrator, Packers and Stockyards Program, GIPSA, United States Department of Agriculture. The Complaint alleged that on or about March 14, 2007, Respondent Steve Rose (hereinafter “Respondent”) purchased 88 head of cattle from Joplin Regional Stockyards, Inc. and failed to pay the amount due for the livestock, and also alleged that as of the date of the filing of the complaint, Respondent owed payment in the amount of \$49,175.75.

The Complaint additionally alleged that during the period March 3, 2007, through March 7, 2007, Respondent issued five (5) checks to four (4) sellers in purported payment for livestock purchases valued at \$228, 095.29, which 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 the checks were drawn to pay them when presented; thus, Respondent failed to pay, when due, the full purchase price of such livestock

In addition, the Complaint alleged that, during the period February 2, 2006 through May 17, 2006, Respondent purchased livestock and failed to pay, when due, the full purchase price of

such livestock, in a total amount of \$825,479.64, to five (5) sellers for 43 transactions; Respondent's payments for these transactions ranged from one (1) to 62 days late.

The Complaint further alleged that Respondent continued to engage in the business of a dealer buying and selling livestock on his own account without maintaining an adequate bond or its equivalent notwithstanding having received notice that it was necessary to increase his surety bond to secure his livestock operations under the Act before continuing in such operations.

The Complaint also alleged that Respondent has failed to keep and maintain records that fully and correctly disclose all transactions involved in Respondent's business subject to the Act, as required by section 401 of the Act, in that Respondent has failed to maintain a complete check register, maintain a complete livestock purchase journal, create sales invoices or record ledger, or maintain a livestock sales journal.

A copy of the Complaint, mailed by certified mail, was received by Respondent on August 15, 2008. Respondent has not answered the Complaint. The time for filing an answer having expired, and upon motion of the Complainant for the issuance of a Default Order, the following Decision and Order shall be issued without further procedure pursuant to Section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Steve Rose (hereinafter "Respondent") is an individual whose mailing address is 16519 County Road 130, Carthage, Missouri 64836..
2. Respondent at all times material to this Complaint was engaged in the business of buying and selling livestock in commerce as a dealer for his own account and was registered with the Secretary of Agriculture as a dealer buying and selling livestock in commerce and as a market agency buying livestock in commerce on a commission basis.

3. The Secretary has jurisdiction over Respondent and the subject matter involved herein.

4. As set forth in paragraph II of the Complaint, Respondent purchased 88 head of cattle from Joplin Regional Stockyards, Inc., and failed to pay the amount due for the livestock; as of the date of the filing of the complaint, Respondent owed payment in the amount of \$49,175.75.

5. As set forth in paragraph III of the Complaint, during the period March 3, 2007, through March 7, 2007, Respondent issued five (5) checks to four (4) sellers in purported payment for livestock purchases valued at \$228,095.29, which were returned unpaid by the bank upon which they were drawn; thus, Respondent failed to pay, when due, the full purchase price of such livestock. As further set forth in paragraph III of the Complaint, during the period February 2, 2006 through May 17, 2006, Respondent purchased livestock and failed to pay, when due, the full purchase price of such livestock, in a total amount of \$825,479.64, to five (5) sellers for 43 transactions; Respondent's payments for these transactions ranged from one (1) to 62 days late.

6. Respondent continued to engage in the business of a dealer buying and selling livestock on his own account without maintaining an adequate bond or its equivalent notwithstanding having received notice that it was necessary to increase his surety bond to secure his livestock operations under the Act before continuing in such operations.

7. Respondent failed to keep and maintain records that fully and correctly disclose all transactions involved in Respondent's business subject to the Act, as required by section 401 of the Act, in that Respondent failed to maintain a complete check register, maintain a complete livestock purchase journal, create sales invoices or record ledger, or maintain a livestock sales journal.

Conclusions

Respondent's failures to make full payment promptly with respect to the transactions set forth in Findings of Fact Nos. 4 and 5 above constitute willful violations of sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a), 228b).

Respondent engaged in the business of a dealer buying and selling livestock on his own account without maintaining an adequate bond or its equivalent as set forth in Finding of Fact No. 6 above, a willful violation of section 312(a) of the Act (7 U.S.C. § 213(a)) and section 201.29 of the regulations (9 C.F.R. § 201.29).

Respondent's failure to keep and maintain records that fully and correctly disclose all transactions involved in Respondent's business subject to the Act, as required by section 401 of the Act, constitutes a willful violation of section 312(a) of the Act (7 U.S.C. § 213(a)).

Order

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

1. Failing to pay the full purchase price of livestock;
2. Failing to pay, when due, the full purchase price of livestock; and
3. Engaging in business in any capacity for which bonding is required under the Packers and Stockyards Act, as amended and supplemented, and the regulations, without filing and maintaining an adequate bond or its equivalent, as required by the Act and the regulations.

Respondent Steve Rose, in connection with his operations as a dealer buying and selling livestock in commerce for its own account, shall keep and maintain such accounts, records, and memoranda as fully and correctly disclose its transactions subject to the Act and the regulations,

including a complete check register, a complete livestock purchase journal, sales invoices or record ledger, and a livestock sales journal.

In accordance with 7 U.S.C. § 204, the registration of Respondent Steve Rose is suspended for a period of five (5) years.

Pursuant to the Rules of Practice governing procedures under the Act, this Decision will become final without further proceedings 35 days after service hereof unless appealed to the Secretary by a party to the proceeding within 30 days after service as provided in Sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. 1.139 and 1.145).

Copies hereof shall be served upon the parties.

Done at Washington, D.C.

this 27 day of October, 2008

PMD

Administrative Law Judge