

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

P & S Docket No. D-06-0021

In re:

Philip O. Mattes, Jr., d.b.a
R or M Cattle Company

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.*), herein referred to as the Act, instituted by a complaint filed by the Deputy Administrator, Packers and Stockyards Administration, United States Department of Agriculture, charging that the respondents wilfully 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.*) governing proceedings under the Act were served on Respondents by regular mail on July 7, 2006, after service by certified mail, return receipt requested, was returned marked “unclaimed.” Respondent Philip O. Mattes was informed in a 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.

Respondent has failed to file an answer within the time prescribed in the Rules of Practice, and 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 and order, therefore, is issued pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Philip O. Mattes Jr. (hereinafter “Respondent Mattes”) is an individual doing business as R or M Cattle Company (hereinafter “R or M Cattle”), whose business mailing address is N13640 Gorman Avenue, Thorp, Wisconsin 54771.

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

(A) Manager of R or M Cattle;

(B) One hundred percent owner of R or M Cattle;

(C) Responsible for the day-to-day management, direction, and control of R or M Cattle.

3. Respondent Mattes, doing business as R or M Cattle at all times material herein, was:

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

(B) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for his own account, and as a market agency buying on commission.

4. On or about the dates and in transactions set forth in paragraph II (a) of the complaint, Respondent Mattes, doing business as R or M Cattle, issued checks in payment for livestock purchases which were returned unpaid by the bank upon which they were drawn. These checks were returned because Respondent Mattes did not have and maintain sufficient funds on deposit and available in the account upon which the checks were drawn to pay such checks when presented.

5. On or about the dates and in the transactions listed paragraph II (b) of the complaint, Respondent Mattes, doing business as R or M Cattle, failed to pay the full purchase price of livestock in the amount of \$186,505.61. Of the \$186,505.61 Respondent failed to pay, \$176,505.61 remained

unpaid as of the date of the issuance of the complaint in this matter.

Conclusions

By reason of the facts alleged in paragraph 4 and 5, Respondent Mattes, doing business as R or M Cattle, wilfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a) and 228b).

Order

Respondent Mattes, doing business as R or M Cattle, his company's officers, directors, agents and employees, successors and assigns, directly or indirectly, in connection with his activities subject to the Packers and Stockyards Act, shall cease and desist from:

1. Failing to pay the full purchase price of livestock; and
2. Issuing checks in payment for livestock purchases without maintaining sufficient funds on deposit and available in the account upon which the checks were drawn to pay the checks when presented.

Respondent Mattes, doing business as R or M Cattle, is suspended as a registrant under the Act for a period of five (5) years.

This decision shall become final and effective without further proceedings 35 days after the date of service upon Respondents, 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 hereof shall be served upon the parties.

Done at Washington, D.C
October 6, 2006

PETER M. DAVENPORT
Administrative Law Judge