

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0088

In re: Dwight Gregory “Greg” Cox,

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 November 30, 2011, by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture (Complainant), alleging that Respondent Dwight Gregory “Greg” Cox willfully violated the Act and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. §§ 201.1 et seq.).

On November 30, 2011, a copy of the Complaint was mailed by certified mail to the Respondent, but was returned by the U.S. Postal Service as “unclaimed.” On December 30, 2011, consistent with the Rules of Practice the Hearing Clerk’s Office re-mailed the complaint by regular mail.

On December 14, 2011, Complainant’s attorney sent a letter and proposed consent decision to the Respondent by UPS Next Day Air delivery. UPS confirmed that delivery occurred on December 15, 2011. Sometime thereafter, the Respondent called Complainant’s attorney and informed her of his correct address.

On January 9, 2012, Complainant's attorney filed a Notice of Current Address requesting that the Hearing Clerk's Office serve an additional copy of the complaint to the Respondent at the correct address. On January 10, 2012, the Hearing Clerk sent a copy of the Complaint by certified mail to the Respondent at the address provided. That mailing was also returned by the U.S. Postal Service as "unclaimed." Pursuant to section 1.147(c)(1) of the Rules of Practice (7 C.F.R. § 1.147(c)(1)), on February 7, 2012, the Hearing Clerk's Office re-mailed the complaint to the Respondent via regular mail.

In the December 14, 2011 letter to the Respondent, Complainant's attorney informed Respondent that he could file an answer to the Complaint and request a hearing or that he could dispose of the matter by signing the enclosed proposed consent decision. In a letter dated February 28, 2012, the Respondent was advised by the Hearing Clerk that he had not filed an answer to the complaint within the time allotted by section 1.136 of the Rules of Practice and that he would be informed of any further proceedings regarding this matter.

As Respondent failed to file an answer within the time period prescribed by the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.136), the following Findings of Fact, Conclusions of Law and Order will be entered pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Dwight Gregory "Greg" Cox, referred to herein as the Respondent, is an individual with a mailing address in Urbana, Missouri.
2. The Respondent was at all times material herein:
 - (a) Engaged in the business of a livestock dealer buying and selling livestock in commerce for his own account;

(b) Engaged in the business of a market agency buying livestock in commerce on a commission basis; and

(c) Not registered with the Secretary of Agriculture as a livestock dealer buying and selling livestock in commerce or a market agency buying livestock in commerce on a commission basis.

3. In August, 2006, Respondent was notified by the Grain Inspection, Packers and Stockyards Administration (“GIPSA”), by certified mail, that GIPSA had information indicating that the Respondent was engaging in livestock operations in commerce without properly registering and filing a bond or bond equivalent as required by the Act and regulations. The letter referenced section 303 of the Act (7 U.S.C. § 203) and sections 201.10, 201.27-201.34 of the regulations promulgated thereunder (9 C.F.R. §§ 201.10, 201.27-201.34), and notified Respondent of his obligation to apply for registration and secure a bond or bond equivalent. The letter also stated that failure to comply with the registration and bonding requirements would result in appropriate corrective action. Notwithstanding such notice, Respondent continued to engage in the business of buying livestock in commerce without registering and without maintaining an adequate bond or bond equivalent as required by the Act and the regulations.

4. From about April 28, 2008, through May 28, 2008, in approximately five transactions at the North Arkansas Livestock Auction, Inc., a posted stockyard in Green Forest, Arkansas, and in approximately two transactions at the Gainesville Auction, Inc., a posted stockyard in Gainesville, Missouri, involving a total of 182 head with a total purchase price of approximately \$96,950, Respondent engaged in the business of a dealer buying livestock in commerce without maintaining an adequate bond or bond equivalent.

5. From about May 21, 2008, through June 18, 2008, in approximately five transactions at the North Arkansas Livestock Auction, Inc., a posted stockyard in Green Forest, Arkansas, involving a total of 362 head with a total purchase price of approximately \$215,235, Respondent engaged in the business of a market agency purchasing livestock in commerce on a commission basis without maintaining an adequate bond or bond equivalent.

6. On June 17, 2008, Respondent issued a check that was returned unpaid by the bank upon which it was drawn in the amount of \$41,822.04 to Gainesville Livestock Auction, Inc. in payment for his livestock purchases.

7. On June 26, 2008, Respondent issued an insufficient funds check in the amount of \$103,783.95, to Springfield Livestock Marketing Center in payment for his livestock purchases.

8. 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. By issuing the checks that were returned unpaid by the banks upon which they were drawn on the dates above, the Respondent also failed to pay, when due, the full amount of the livestock purchase prices within the time period required by the Act. As of the date of issuance of the Complaint, \$92,898.54 of the \$145,605.99 referred to above remained unpaid.

9. On or about the dates and in the transactions set forth below, Respondent purchased livestock and failed to pay, when due, for such livestock purchases.

PURCHASE

<u>DATE</u>	<u>PAYEE</u>	<u>AMOUNT</u>
6/19/08	Douglas County Livestock Auction, Inc. Ava, Missouri	\$30,427.50
6/25/08	Trenton Stockyard Sales, LLC Trenton, Tennessee	\$32,500.57
6/9/08	Kelly Cattle Co., Inc. Mountain Grove, Missouri	\$14,064.28

6/23/08

Kelly Cattle Co., Inc.
Mountain Grove, Missouri

\$8,854.44

10. As of the date of issuance of the Complaint, \$52,416.79 of the \$85,846.79 referred to above remains unpaid.

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 and 201.30).
3. Respondent has willfully violated section 409 of the Act (7 U.S.C. § 228b) and section 201.43 of the regulations (9 C.F.R. § 201.43).

Order

1. Respondent Dwight Gregory “Greg” Cox, his agents and employees, directly or indirectly through any corporate or other device, shall cease and desist from:
 - a. Engaging in business in any capacity for which bonding is required under the Packers and Stockyards Act and regulations promulgated thereunder without filing and maintaining an adequate bond or its equivalent;
 - b. 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));
 - c. Purchasing livestock and failing to pay for such livestock purchases the full amount of the purchase price for livestock within the time period required by the Act, as

required by section 409 of the Act (7 U.S.C. § 228b) and section 201.43 of the regulations (9 C.F.R. § 201.43); and

d. Issuing checks in payment for livestock without having and maintaining sufficient funds on deposit and available in the accounts upon which they are drawn to pay such checks when presented.

2. Respondent is hereby barred from registering under the Act for a period of five (5) years, and pursuant to Section 303 of the Act (7 U.S.C. § 203), Respondent is prohibited from operating as a dealer or market agency without being registered.

3. This Decision and Order shall become final and effective without further proceedings thirty-five (35) days after service on Respondent, unless appealed to the Judicial Officer by a party to the proceeding within thirty (30) days after service as provided in sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139, 1.145).

Copies of this Decision and Order shall be served upon the parties.

April 25, 2012

Peter M. Davenport
Chief Administrative Law Judge