

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:

MURRAY L. EDWARDS,

Respondent.

DECISION AND ORDER

The instant matter involves a disciplinary proceeding filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, of the United States Department of Agriculture (“USDA”; “Complainant”).

Procedural History

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. §§ 181-229) (PSA) by a Complaint filed by USDA on November 30, 2011 against Murray L. Edwards (“Respondent”). The Hearing Clerk for the Office of Administrative Law Judges (“OALJ”) (“Hearing Clerk”) served the complaint upon Respondent on December 1, 2011. On January 4, 2012, Respondent’s counsel entered notice of appearance and filed an Answer to the Complaint. On March 26, 2012, I issued an Order directing the parties to show cause why a Decision and Order by entry of default should not be entered. On April 12, 2012, Complainant responded to my Order and moved for the entry of a Decision and Order on default. Respondent did not respond to my Order or to Complainant’s motion, which was served by the Hearing Clerk on April 13, 2012. The motion was not returned as undeliverable.

Discussion

Respondents have failed to timely file an Answer or otherwise respond to Complainant’s pleadings in this matter within the time set forth by 7 C.F.R. § 1.136. Accordingly, pursuant to 7 C.F.R. §

1.136 (c), entry of Default is appropriate, on the basis of the admitted facts pursuant to section 1.139 of the Rules of Practice Before OALJ set forth at 7 C.P.R. § 1.139.

Admitted Facts

1. Murray L. Edwards, referred to herein as the Respondent, is an individual whose business mailing address is his home address in the State of Florida.

2. At all times material to the allegations in the Complaint, Respondent was:

- a. Engaged in the business of buying and selling livestock in commerce; and
- b. Registered with the 'Secretary of Agriculture as a dealer buying and selling livestock in commerce.

3. By final order of the Secretary of Agriculture, issued on September 18, 1989, *In re Murray L. Edwards*, P&S Docket No. D-88-56, Respondent was ordered to cease and desist from failing to pay for livestock purchases within the time period required by the Act.

4. Notwithstanding the prior Order of the Secretary in P&S Docket No. D-8856, Respondent has continued to fail to make payments for cattle purchases in accordance with the requirements in section 409 of the Act (7 U.S.C. § 228b).

5. On or about the dates and in the transactions set forth in the tabulation attached as "Exhibit B" to the complaint, incorporated by reference herein, Respondent failed to make timely payment, as required by section 409 of the Act (7 U.S.C. § 228b), for \$515,805.10 in livestock purchases from one individual seller and twelve auction markets.

6. Respondent also issued nine checks for \$322,241.56 in livestock purchases that 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 such checks were

drawn to pay such checks when presented.

7. As of September 21, 2011, approximately \$180,000 of the livestock debt listed in paragraph 5 above remained unpaid.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. At all times relevant to the allegations in the complaint, Respondent was operating as a livestock dealer subject to the provisions of the PSA.
3. By reason of the admitted facts set forth above, I find that Respondent has willfully violated sections 312(a) and 409 of the PSA (7 U.S.C. §§ 213(a), 228(b), by failing to make timely payment for livestock purchases and issuing insufficient fund checks in purported payment for livestock.
4. I find that the cease and desist order and the five-year suspension recommended by Complainant are appropriate and warranted under the facts and circumstances of Respondent's admitted violations in this case.

ORDER

Respondent Murray L. Edwards, 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. Purchasing livestock and failing to pay for such livestock purchases within the time period required by the PSA; and
2. 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.

Further, Respondent Murray L. Edwards is suspended as a registrant under the PSA for a period of five (5) years; provided, however, that upon application to the Packers and Stockyards Program, a supplemental order may be issued terminating the suspension of Respondent's registration at any time after one (1) year upon demonstration by Respondent that he is in full compliance with the Act.

Pursuant to the Rules of Practice, this Decision and Order 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 thirty (30) days after service, pursuant to the Rules, 7 C.F.R. §§1.139 and 1.145.

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

Issued in Washington D.C. this 31st day of May , 2012.

Janice K. Bullard
Administrative Law Judge