

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0324

In re: Bobby T. Tindel,

Respondent

Default Decision and Order

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 on March 27, 2012 by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that Bobby T. Tindel, herein referred to as Respondent, willfully violated the Act.

The Complaint and a copy of the Rules of Practice were served upon Respondent on April 5, 2012 pursuant to section 1.147 of the Rules of Practice. Respondent was informed in the 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.

As the Respondent failed to file an answer within the time period prescribed by the Rules of Practice (7 C.F.R. § 1.136), the following Finding 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. Respondent Bobby T. Tindel is an individual with a mailing address in Chandler, Texas.
2. Respondent, at all times material herein, was:
 - (1) Engaged in business as a market agency buying on commission; and
 - (2) Not registered, as required, as a market agency buying on commission with the Secretary of Agriculture.
3. On January 3, 2007, the Grain Inspection Packers & Stockyards Administration of the United States Department of Agriculture (GIPSA) sent a letter to Respondent, via certified mail, notifying Respondent that his surety bond maintained in connection with his operation subject to the Act would terminate on March 02, 2007.¹ The letter stated that unless Respondent obtained a new bond or bond equivalent securing the performance of his livestock obligations on or before March 2, 2007, Respondent would have to discontinue all livestock operations for which bonding is required under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. §§ 181-229). The letter specifically stated that, “continuing such operations is considered a violation of the Act and regulations issued thereunder and may subject [Respondent] to disciplinary action under the Act (7 U.S.C. §§ 192 (packers), 204, 213(a) (market agencies and dealers) and 9 C.F.R. §§ 201.29-201.30).” Notwithstanding such notice, on or about the dates and in the transactions set forth in Appendix A attached to the Complaint in this action which is incorporated herein by reference, Respondent engaged in the business of a market agency

¹ The certified mail-return receipt for this letter was 7006 0810 0005 2551 1472; the mail-return receipt shows that this letter was received and signed for by Respondent.

buying on commission without maintaining an adequate bond or bond equivalent.

4. Respondent was previously found to have committed willful violations of the Act, *In re Bobby T. Tindel*, 66 Agric. Dec. 737 (2007) (Decision by then Chief Judge Marc R. Hillson)

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. §192 and Section 201.29 of the Regulations, 9 C.F.R. §2012.29.

Order

1. Respondent, his agents and employees, directly or through any corporate or other device, in connection with activities subject to the Act, shall cease and desist from:
 - a) engaging in operations subject to the Act without maintaining an adequate bond or bond equivalent as required by 7 U.S.C. § 204 and section 201.29 of the regulations (9 C.F.R. § 201.29).
2. Respondent is assessed a civil penalty of \$8,000.
3. This Decision shall become final and effective without further proceedings 35 days after the date of service upon Respondent, unless it is appealed to the Judicial Officer by a party to the proceeding within thirty (30) days pursuant to section 1.145 of the Rules of Practice (7 C.F.R § 1.145).

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

June 28, 2012

Peter M. Davenport
Chief Administrative Law Judge