

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

REC'D - USDA/OALJ/HCO
2022 JUN 21 11:22 AM

In re:)
)
Ruben Saavedra, Sr.,) P&S-D Docket No. 21-J-0063
)
Respondent.)

DECISION AND ORDER WITHOUT HEARING BY REASON OF DEFAULT

Appearance:

Christopher Young, Esq., Office of the General Counsel, United States Department of Agriculture, Washington, DC for the Complainant, the Deputy Administrator of the Fair Trade Practices Program, Agricultural Marketing Service (“AMS”)

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.*) (“Act”); the regulations promulgated thereunder (9 C.F.R. §§ 201.1 *et seq.*) (“Regulations”); and the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130 through 1.151) (“Rules of Practice”).

The Deputy Administrator, Fair Trade Practices Program, Agricultural Marketing Service, United States Department of Agriculture (“Complainant”), initiated this proceeding by filing a complaint against Ruben Saavedra, Sr. on August 27, 2021. The Complaint alleged that Respondent willfully violated section 312(a) of the Act (7 U.S.C. § 213) and section 201.29 of the Regulations (9 C.F.R. § 201.29)¹ and requested:

1. That *unless Respondent fails to file an answer within the time allowed*, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in accordance with the Rules of Practice; and

¹ Complaint at 2-3.

2. That an order be issued Respondent to cease and desist from the violations of the Act and the regulations found to exist; barring Respondent from registering under the Act for a specified period; prohibiting Respondent, for a specified period, from engaging in business in any capacity for which registration and bonding are required under the Act; and assessing such civil penalties against Respondent as are authorized by the Act and warranted by the facts and circumstances of this case.

Complaint at 3-4 (emphasis added).

Respondent was duly served with a copy of the Complaint and did not file an answer within the twenty-day period as prescribed by section 1.136 of the Rules of Practice (7 C.F.R. § 1.136).²

On March 15, 2022, Complainant filed a motion for decision without hearing by reason of default (“Motion for Default”) and proposed decision without hearing by reason of default (“Proposed Decision”) pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139). Complainant now requests that I issue an order (1) directing Respondent to cease and desist from operating without proper bond and registration and (2) assessing Respondent a civil penalty of \$5,125.00.³ Respondent has not filed any objections to Complainant’s Motion for Default or

² United States Postal Service records reflect that the Complaint was sent to Respondent via certified mail and delivered on September 20, 2021. Respondent had twenty days from the date of service to file a response. 7 C.F.R. § 1.136(a). Weekends and federal holidays shall be included in the count; however, if the due date falls on a Saturday, Sunday, or federal holiday, the last day for timely filing shall be the following work day. 7 C.F.R. § 1.147(h). In this case, Respondent’s answer was due on or before October 12, 2021. Respondent has not filed an answer.

³ Motion for Default at 4.

Proposed Decision.⁴

Failure to file a timely answer or failure to deny or otherwise respond to allegations in the Complaint shall be deemed, for purposes of this proceeding, an admission of the allegations in the Complaint, unless the parties have agreed to a consent decision.⁵ Other than a consent decision, the Rules of Practice do not provide for exceptions to the regulatory consequences of an unfiled answer where, as in the present case, no meritorious objections have been filed.⁶

As Respondent failed to answer the Complaint, and upon Complainant's motion for the issuance of a decision without hearing, this Decision and Order is issued without further procedure or hearing pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent Ruben Saavedra, Sr. is an individual whose business mailing address is [REDACTED].
2. At all times material to the Complaint, Respondent engaged in the business of a livestock dealer, buying and selling livestock in interstate commerce, and was not registered with the Secretary of Agriculture as a dealer.

⁴ United States Postal Service records reflect that Complainant's Motion for Default and Proposed Decision were sent to Respondent via certified mail and delivered on April 1, 2022. Respondent had twenty days from the date of service to file objections thereto. 7 C.F.R. § 1.139. Weekends and federal holidays shall be included in the count; however, if the due date falls on a Saturday, Sunday, or federal holiday, the last day for timely filing shall be the following work day. 7 C.F.R. § 1.147(h). In this case, Respondent's objections were due on or before April 21, 2022. Respondent has not filed any objections.

⁵ 7 C.F.R. § 1.136(c).

⁶ See *supra* note 4 and accompanying text.

3. On May 17, 2017, the Packers and Stockyards Division hand delivered Respondent a Notice of Default notifying him of his obligation to file an application for registration and to secure a bond if he wished to engage in the business of buying livestock in interstate commerce. Notwithstanding the Notice of Default, Respondent continued to engage in the business of buying and selling livestock in interstate commerce without registering with the Secretary or maintaining an adequate bond or bond equivalent as required by the Act and Regulations.
4. Respondent purchased 818 head of livestock in thirty transactions at posted livestock markets from June 6, 2018 through October 10, 2019, for a total purchase price of \$68,121.96. Respondent sold twenty-eight head of livestock at a posted livestock market from May 13, 2019 through October 10, 2019, for a total amount of \$4,507.40 (this sale of twenty-eight head was connected to the thirty transactions stated above). In all of those transactions, Respondent engaged in the business of a dealer buying and selling livestock in interstate commerce on a commission basis, without registering with the Secretary or maintaining an adequate bond or bond equivalent.

Conclusions

1. The Secretary of Agriculture has jurisdiction in this matter.
2. By reason of the facts above, and further pursuant to 7 U.S.C. § 204 of the Act, Respondent has willfully violated section 312(a) of the Act (7 U.S.C. § 213(a)) and section 201.29 of the Regulations promulgated thereunder (9 C.F.R. § 201.29).

ORDER

1. Complainant's Motion for Default is GRANTED.

2. Respondent Ruben Saavedra, Sr., his agents and employees, directly or through any corporate or other device, shall cease and desist from engaging in operations subject to the Packers and Stockyards Act without maintaining a proper Packers and Stockyards registration bond.
3. Respondent is assessed a civil penalty of \$5,125.00, to be paid immediately upon the final and effective date of this Order. The payment shall be sent to the following address: USDA, Fair Trade Practices Program, Packers and Stockyards Division, P.O. Box 790312, St. Louis, MO 63179-0312.

This Decision and Order shall be final and effective without further proceedings thirty-five (35) days after service, unless an appeal to the Judicial Officer is filed with the Hearing Clerk 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 and 1.145).

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

Done at Washington, D.C.,
this 21st day of June 2022

**CHANNING
STROTHER**

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Channing D. Strother
Chief Administrative Law Judge

Hearing Clerk's Office
United States Department of Agriculture
Stop 9203, South Building, Room 1031
1400 Independence Avenue, SW
Washington, DC 20250-9203
Tel: 202-720-4443
Fax: 844-325-6940
SM.OHA.HearingClerks@USDA.GOV