

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
)
Chakota Rowdy Ray Snow,) P&S-D Docket No. 21-J-0019
d/b/a R & R Cattle Co. and d/b/a Rowdy Snow Cattle,)
)
Respondent.)

REC'D - USDA/OALJ/OHC
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DECISION AND ORDER WITHOUT HEARING BY REASON OF DEFAULT

Appearance:

Mary E. Sajna, Esq., with the Office of the General Counsel, United States Department of Agriculture, Missoula Field Office, for the Complainant, the Deputy Administrator, 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 Chakota Rowdy Ray Snow, doing business as R & R Cattle Co. and doing business as Rowdy Snow Cattle (“Respondent”), on March 3, 2021. The Complaint alleges that Respondent willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a) and 228b) and sections 201.29, 201.30, and 201.43 of the Regulations (9 C.F.R. §§ 201.29, 201.30, and 201.43).¹ Further, the Complaint requests:

¹ Complaint at 3.

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
2. That an order or orders be issued requiring Respondent[] to cease and desist from the violations of the Act and regulations found to exist; suspending Respondent as a registrant 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 civil penalties as is authorized by the Act and warranted by the facts and circumstances of this case.

Complaint at 4 (emphasis added).

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

On April 13, 2021, I issued an order directing the parties to show cause (“Show Cause Order”), not later than twenty days after that date, why default should not be entered against Respondent.³

On April 21, 2021, Complainant responded to the Show Cause Order by filing a motion for a decision without hearing by reason of default (“Motion for Default”) and proposed decision without hearing by reason of default (“Proposed Decision”). Respondent failed to respond to the Show Cause Order and 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 March 12, 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 April 1, 2021. Respondent has not filed an answer.

³ The Show Cause Order also directed: “Unless the parties have agreed to a consent decision, Complainant’s response shall be accompanied by: (1) a proposed decision and order and (2) a motion for adoption of that proposed decision and order in accordance with the provisions of 7 C.F.R. § 1.139.” Show Cause Order at 2.

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 file an answer the Complaint, and upon Complainant's motion for the issuance of a decision without hearing by reason of default, 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 Chakota Rowdy Ray Snow is an individual doing business individually using name variations and doing business as R & R Cattle Co. and Rowdy Snow Cattle.

Respondent's principal place of business and mailing address are in the State of (b) (6).

2. At all times material herein, Respondent was engaged in the business of a dealer under the Act and engaged in the business of managing, controlling, and operating unregistered "doing business as" entities R & R Cattle Co. and Rowdy Snow Cattle as dealers under the Act.

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 May 17, 2021. 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 June 7, 2021. Respondent has not filed any objections.

⁵ 7 C.F.R. § 1.136(c).

⁶ 7 C.F.R. § 1.139; *see supra* note 4 and accompanying text.

3. On June 14, 2018, Respondent was sent a Notice of Default notifying him to file an application for registration and to secure a replacement bond if he wished to engage in the business of buying or selling livestock in interstate commerce.
4. Notwithstanding the Notice of Default, Respondent has continued to engage in the business of buying and selling livestock in interstate commerce without maintaining an adequate bond or bond equivalent as required by the Act. On or about June 20 and 27, 2018, Respondent engaged in the business of a dealer; purchased a large volume of livestock in ten transactions totaling \$427,113.29; and failed to pay, when due, the full purchase price of such livestock within the time period required by the Act and the Regulations promulgated thereunder. Respondent further issued checks in payment without sufficient funds in Respondent's bank account to pay for the checks.

Conclusions

1. The Secretary of Agriculture has jurisdiction in this matter.
2. By reason of the facts set forth above, Respondent Chakota Rowdy Ray Snow, d/b/a R & R Cattle Co. and d/b/a Rowdy Snow Cattle, has willfully violated section 312(a) of the Act (7 U.S.C. § 213(a)), section 409(a) of the Act (7 U.S.C. § 228b), and sections 201.29, 201.30, and 201.43(b)(2)(ii) of the Regulations promulgated thereunder (9 C.F.R. §§ 201.29, 201.30, and 201.43(b)(2)(ii)).

ORDER

1. Complainant's Motion Decision Without Hearing by Reason of Default is GRANTED.
2. Respondent Chakota Rowdy Ray Snow, d/b/a R & R Cattle Co. and d/b/a Rowdy Snow Cattle, directly or through any corporate or other device, in connection with operations subject to the Packers and Stockyards Act, shall cease and desist from engaging in operations

subject to the Act without paying timely for each and every livestock transaction and purchase from sellers of livestock; shall cease and desist from issuing checks without sufficient funds to pay those checks; and shall cease and desist from operating subject to the Act without obtaining the proper bond or bond equivalent.

3. Respondent is further suspended as a registrant from all livestock operations as a dealer for a period of seven (7) years and thereafter until a bond or adequate financial instrument is obtained.

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 8th day of June 2021

CHANNING STROTHER

Digitally signed by CHANNING
STROTHER
Date: 2021.06.08 13:35:39 -04'00'

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