

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	P. & S. Docket No. D-04-0001
)	
Curtis W. Minzenmayer,)	
)	
Respondent)	Decision Without Hearing By Reason of Default

This proceeding under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.), hereinafter the “Act,” was instituted by a complaint filed on December 16, 2003, by the Deputy Administrator, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture alleging that Respondent willfully violated the Act.

The complaint and a copy of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130), hereinafter the “Rules of Practice,” were served on Respondent by certified mail on December 27, 2003. The complaint was accompanied by a service letter from the Hearing Clerk informing Respondent that an answer must be filed within twenty days of service and that failure to file an answer would constitute an admission of all of the material allegations of fact in the complaint and waive Respondent’s right to an oral hearing.

Respondent has failed to file an answer within the time period prescribed by section 1.136 of the Rules of Practice (7 C.F.R. § 1.136). Respondent’s failure to file an answer

constitutes an admission of all of the material allegations of fact in the complaint. Based on these admissions, Complainant's motion for the issuance of a default decision, made pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139), is hereby granted and this Decision and Order are entered without hearing or further procedure.

Findings of Fact

1. Curtis W. Minzenmayer, referred to herein as the "Respondent," is an individual whose business mailing address is 2400 Arrowhead, Apt. 243, Abilene, Texas 79604.

2. **Respondent Minzenmayer, at all times material herein, was:**

(a) Engaged in the business of buying and selling livestock in commerce for his own account; and

(b) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce.

3. Respondent Minzenmayer, in connection with his operations subject to the Act, on or about the dates and in the transactions set forth in paragraph II(a) of the complaint, purchased livestock and failed to pay, when due, the full purchase price of such livestock. 4.

Respondent Minzenmayer, in connection with his operations subject to the Act, on or about the dates and in the transactions set forth in paragraph II(b) of the complaint, issued a check in payment for livestock purchases which check was returned unpaid by the bank upon which it was drawn because Respondent Minzenmayer did not have and maintain sufficient funds on deposit and available in the accounts upon which such check was drawn to pay such check when presented.

5. As of January 16, 2003, Respondent Minzenmayer **had failed to pay for livestock in the amount of \$166,583.83 due in the transactions set forth in paragraph II(a) of the complaint.**

Conclusions

By reason of the facts found herein, Respondent Minzenmayer has willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a) and 228b).

Order

Respondent Curtis W. Minzenmayer, his agents and employees, directly or through any corporate or other device, in connection with his activities subject to the Packers and Stockyards Act, shall cease and desist from:

1. Issuing checks in payment for livestock purchases without maintaining sufficient funds on deposit and available in the account upon which such checks were drawn to pay such checks when presented;
2. Failing to pay, when due, the full purchase price of livestock; and
3. Failing to pay the full purchase price of livestock.

Respondent is hereby suspended as a registrant under the Act for a period of five years. Provided, however, that upon application to Packers and Stockyards Programs a supplemental order may be issued terminating the suspension of Respondent at any time after 180 days upon demonstration by Respondent of circumstances warranting such termination; and provided further, that this order may be modified upon application to Packers and Stockyards Programs to permit Respondent's salaried employment by another registrant or a packer after the expiration

of 180 days of suspension and upon demonstration of circumstances warranting modification of the order.

Pursuant to the Rules of Practice governing procedures under the Act, this Order shall become final without further proceedings thirty-five (35) days after service hereof, unless appealed to the Secretary 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 and 1.145).

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

Issued in Washington D.C.

this 22nd day of April, 2004

Marc Hillson

Administrative Law Judge