

AGRICULTURE DECISIONS

Volume 79

Book One

Part Two (P&S Decisions)

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THIS IS A COMPILATION OF DECISIONS ISSUED BY THE
SECRETARY OF AGRICULTURE AND THE COURTS
PERTAINING TO STATUTES ADMINISTERED BY THE
UNITED STATES DEPARTMENT OF AGRICULTURE

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JANUARY – JUNE 2020

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DEPARTMENTAL DECISION

In re: QUINTER LIVESTOCK MARKET, LLC; and CLINT KVASNICKA.

Docket Nos. 19-J-0081, 19-J-0082.

Decision and Order.

Filed April 8, 2020.

P&S-D.

Buren W. Kidd, Esq., for AMS.

Clint Kvasnicka, *pro se*, representing Quinter Livestock Market, LLC and himself.
Decision and Order by Jill S. Clifton, Administrative Law Judge.

DECISION AND ORDER ON THE WRITTEN RECORD
(RULING GRANTING COMPLAINANT AMS'S MOTION
FOR DECISION WITHOUT HEARING)

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 by the Secretary of Agriculture (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 (“AMS” or “Complainant”), initiated this proceeding by filing a complaint alleging that Quinter Livestock Market, LLC and Clint Kvasnicka (collectively, “Respondents”) willfully violated the Act. On July 16, 2019, AMS moved for a decision and order without hearing based on admissions pursuant to sections 1.136(c) and 1.139 of the Rules of Practice (7 C.F.R. §§ 1.136(c) and 1.139).

I agree with AMS that no hearing is warranted and that a decision on

the written record is appropriate. I grant AMS's Motion for Decision Without Hearing.

Procedural History

On May 7, 2019, AMS filed a disciplinary complaint against Respondents. The Complaint alleged that Respondents willfully violated sections 307, 312(a), and 409 of the Act (7 U.S.C. §§ 208, 213(a), and 228b); and section 201.42 of the Regulations (9 C.F.R. § 201.42), by failing to properly maintain Respondents' custodial account and by failing to pay, when due, the full purchase price of livestock.¹ Moreover, the Complaint requested:

That an order be issued requiring Respondents to cease and desist from violations of the Act and the regulations found to exist; suspending Respondents as registrants under the Act; and barring Respondents from registering under the Act; prohibiting Respondents, for a specified period, from engaging in business in any capacity for which registration and bonding are required under the Act; and finally, assessing any such civil penalties as may be warranted under the circumstances.

Complaint at 11.

On June 3, 2019, Respondents filed a timely response ("Answer")² to the Complaint.³ The Answer did not admit or deny the material allegations

¹ See Complaint at 3-9.

² The response was handwritten on the cover page of the Rules of Practice, which had been mailed to Respondents with the Complaint, and signed by Respondent Clint Kvasnicka.

³ United States Postal Service records reflect that the Complaint was sent to Respondents via certified mail and delivered on May 14, 2019. Respondents 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, Respondents' answer was due by June 10, 2019.

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of the Complaint but provided, in its entirety: “We had Banking issues!!! I Informed P n S when it happened. They were aware of the problems that occurred [sic]. The Bank was at fault.”⁴ Attached to the Answer was a letter dated September 17, 2018 from Respondents’ banking institution, which stated:

Dear,

A few weeks ago, there was a check deposited into an incorrect account that caused a problem with your check from Quinter Livestock. This was a bank error and I personally want to apologize for the mix-up. If you incurred any charges at your bank regarding your cattle sales from Quinter Livestock, I will be happy to refund those.

Attachment to Answer at 1.

On July 16, 2019, AMS filed a Motion for Decision Without Hearing (“Motion for Default”) and Proposed Decision and Order Without Hearing (“Proposed Decision”) based on Respondents’ failure “to deny any of the allegations contained in paragraphs I through VII of the Complaint.”⁵ Respondents have not filed any objections thereto.⁶

Authorities

The Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (“Rules of Practice” or

⁴ Answer at 1.

⁵ Motion at 1.

⁶ United States Postal Service records reflect that the Motion for Default and Proposed Decision were sent to Respondents via certified mail and delivered on July 22, 2019. Respondents 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, Respondents’ objections were due by August 12, 2019. Respondents have not filed any objections.

“Rules”), set forth at 7 C.F.R. §§ 1.130 *et seq.*, apply to the adjudication of this matter. Pursuant to section 1.136 (7 C.F.R. § 1.136), a respondent is required to file an answer within twenty days after service of a complaint.⁷ The Rules provide that an answer shall “[c]learly admit, deny, or explain each of the allegations of the Complaint and shall clearly set forth any defense asserted by the respondent.”⁸ Moreover, “failure to deny or otherwise respond to an allegation of the Complaint shall be deemed, for purposes of the proceeding, an admission of said allegation.”⁹ With regard to such admission, section 1.139 (7 C.F.R. § 1.139) provides:

The failure to file an answer, or the admission by the answer of the all the material allegations of fact contained in the complaint, shall constitute a waiver of hearing. Upon such admission or failure to file, complainant shall file a proposed decision, along with a motion for the adoption thereof, both of which shall be served upon the respondent by the Hearing Clerk. Within 20 days after service of such motion and proposed decision, the respondent may file with the Hearing Clerk objections thereto. If the Judge finds that meritorious objections have been filed, complainant’s Motion shall be denied with supporting reasons. If meritorious objections are not filed, the Judge shall issue a decision without further procedure or hearing.

7 C.F.R. § 1.139 (emphasis added).

Also applicable to the instant proceeding are sections 307, 312(a), and 409 of the Act (7 U.S.C. §§ 208, 213(a), and 228b) and section 201.42 of the Regulations (9 C.F.R. § 201.42).

Section 307 of the Act (7 U.S.C. § 208) requires “every stockyard owner and market agency to establish, observe, and enforce just, reasonable, and nondiscriminatory regulations and practices in respect to

⁷ 7 C.F.R. § 1.136(a).

⁸ 7 C.F.R. § 1.136(b)(1).

⁹ 7 C.F.R. § 1.136(c).

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the furnishing of stockyard services” and provides that “every unjust, unreasonably, or discriminatory regulation or practice is prohibited and declared to be unlawful.”¹⁰ Pursuant to section 312(a) of the Act:

It shall be unlawful for any stockyard owner, market agency, or dealer to engage in or use any unfair, unjustly discriminatory, or deceptive practice in connection with determining whether persons should be authorized to operate at the stockyards, or with the receiving, marketing, buying, or selling on a commission basis or otherwise, feeding, watering, holding, delivery, shipment, weighing, or handling of livestock.

7 U.S.C. § 213(a).

Under section 228b, the term “unfair practice” includes “[a]ny delay or attempt to delay by a market agency, dealer or packer purchasing livestock, the collection of funds . . . or otherwise for the purpose of or resulting in extending the normal period of payment for such livestock.”¹¹ With regard to the collection of funds, section 228b provides:

Each packer, market agency, or dealer purchasing livestock shall, before the close of the next business day following the purchase of livestock and transfer of possession thereof, deliver to the seller or his duly authorized representative the full amount of the purchase price: Provided, That each packer, market agency, or dealer purchasing livestock for slaughter shall, before the close of the next business day following purchase of livestock and transfer of possession thereof, actually deliver at the point of transfer of possession to the seller or his duly authorized representative a check or shall transfer funds for the full amount of the purchase price to the account of the seller by wire, electronic funds transfer, or any other expeditious method determined appropriate

¹⁰ 7 U.S.C. § 208(a).

¹¹ 7 U.S.C. § 228b(c).

by the Secretary for the full amount of the purchase price; or, in the case of a purchase on a carcass or “grade and yield” basis, the purchaser shall make payment by check at the point of transfer of possession or shall transfer funds for the full amount of the purchase price to the account of the seller by wire, electronic funds transfer, or any other expeditious method determined appropriate by the Secretary for the full amount of the purchase price not later than the close of the first business day following determination of the purchase price: Provided further, That if the seller or his duly authorized representative is not present to receive payment at the point of transfer of possession, as herein provided, the packer, market agency or dealer shall transfer funds for the full amount of the purchase price by wire, electronic funds transfer, or any other expeditious method determined appropriate by the Secretary or place a check in the United States mail for the full amount of the purchase price, properly addressed to the seller, within the time limits specified in this subsection, such action being deemed compliance with the requirement for prompt payment.

7 U.S.C. § 228b(a).

Furthermore, “[e]ach payment that a livestock buyer makes to a market agency selling on a commission is a trust fund,”¹² and every market agency subject to the Act is required to establish and properly maintain a custodial account for shipper’s proceeds.¹³ Section 201.42(c) of the Regulations (9 C.F.R. § 201.42(c)) sets forth detailed instructions on how to properly maintain a custodial account:

The market agency shall deposit in its custodial account

¹² 9 C.F.R. § 201.42(a).

¹³ 9 C.F.R. § 201.42(b) (“Every market agency engaged in selling livestock on a commission or agency basis shall establish and maintain a separate bank account designed as ‘Custodial Account for Shippers’ Proceeds,’ or some other identifying designation, to disclose that the depositor is acting as a fiduciary and that the funds in the account are trust funds.”).

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before the close of the next business day (the next day on which banks are customarily open for business whether or not the market agency does business on that day) after livestock is sold (1) the proceeds from the sale of livestock that have been collected, and (2) an amount equal to the proceeds receivable from the sale of livestock that are due from (i) the market agency, (ii) any owner, officer, or employee of the market agency, and (iii) any buyer to whom the market agency has extended credit. The market agency shall thereafter deposit in the custodial account all proceeds collected until the account has been reimbursed in full, and shall, before the close of the seventh day following the sale of livestock, deposit an amount equal to all the remaining proceeds receivable whether or not the proceeds have been collected by the market agency.

9 C.F.R. § 201.42(c).

Discussion

It is well settled that “a respondent in an administrative proceeding does not have a right to an oral hearing under all circumstances, and an agency may dispense with a hearing when there is no material issue of fact on which a meaningful hearing can be held.”¹⁴ Section 1.139 of the Rules of Practice (7 C.F.R. § 1.139) allows for a decision without hearing by reason of admissions: “The failure to file an answer, or the admission by the answer of all the material allegations of fact, contained in the complaint, shall constitute a waiver of hearing.”¹⁵

In their Answer, Respondents did not deny that they had violated the Act. The Answer states, in its entirety:

We had Banking issues!!! I Informed PnS when it

¹⁴ *H. Schnell & Co.*, 57 Agric. Dec. 1722, 1729 (U.S.D.A. 1998); *see, e.g., KDLO Enters., Inc.*, 70 Agric. Dec 1098, 1104 (U.S.D.A. 2011); *Kirby Produce Co.*, 58 Agric. Dec. 1011, 1027 (U.S.D.A. 1999).

¹⁵ 7 C.F.R. § 1.139.

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happened. They were aware of the problems that occurred. The Bank was at fault.

Answer at 1. Such explanation does not satisfy the specific requirements for an answer under section 1.136 of the Rules of Practice, which requires Respondents to “clearly admit, deny, or explain”¹⁶ all the allegations of the Complaint.¹⁷ Respondents failed to clearly deny the material allegations set forth in Paragraphs I through VII of the Complaint; therefore, those allegations shall be deemed admitted.¹⁸

Assuming *arguendo* that the bank letter attached to Respondents’ Answer might be considered responsive to the Complaint, AMS has demonstrated that the contents of the letter are immaterial here:

In support of their assertion, Respondents attached a letter from their banking institution dated September 17, 2018, describing an incident which occurred “a few weeks ago where “a check was deposited into an incorrect account that caused a problem with your check from Quinter Livestock.” Assuming that this ‘bank error’ occurred

¹⁶ See 7 C.F.R. § 1.136(b) (“The answer shall: (1) Clearly admit, deny, or explain each of the allegations of the Complaint and shall clearly set forth any defense asserted by the respondent; or (2) State that the respondent admits all the facts alleged in the complaint; or (3) State that the respondent admits the jurisdictional allegations of the complaint and neither admits nor denies the remaining allegations and consents to the issuance of an order without further procedure.”).

¹⁷ See *Blaser*, 45 Agric. Dec. 1727, 1728 (U.S.D.A. 1986) (holding that an answer that admits one allegation of the complaint and fails to respond to the other allegations constitutes an admission of all allegations in the complaint); *Stoltzfus*, 44 Agric. Dec. 1161, 1162 (U.S.D.A. 1985) (holding that an answer stating “no violation was intended” does not otherwise respond to the complaint and is deemed an admission of the allegations of the complaint under 7 C.F.R. 1.136(c)); *Lucas*, 43 Agric. Dec. 1721, 1722, 1725 (U.S.D.A. 1984) (where an answer that raised concerns extraneous to the complaint failed to admit, deny, or otherwise respond to allegations of the complaint and was deemed an admission of the complaint allegations).

¹⁸ See 7 C.F.R. § 1.136(c) (“[F]ailure to deny or otherwise respond to an allegation of the Complaint shall be deemed, for purposes of the proceeding, an admission of said allegation, unless the parties have agreed to a consent decision.”).

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during the beginning of September 2018 (the timeframe suggested by the bank letter), the bank error could “explain” one of two bank fees* charged to the Respondents’ account. While the explanation is not a clear denial and does not coincide with the evidence gathered against Respondents in this case, since some explanation of the allegation was provided in the Answer, *Complainant withdrew its allegations* in support of Respondents misuse of custodial account with respect to both “return check fees” which occurred during the beginning of September 2018 in the Motion for Decision Without Hearing.

Proposed Decision at 1-2 (emphasis added). Moreover, even if AMS had not withdrawn these allegations, the purported error is not a defense to any of the alleged violations contained in the Complaint. A banking error, or even a deliberate act by a bank (such as terminating overdraft protection) does not “insulate a livestock buyer from accountability under the Act” because “[i]t gives no protection to the sellers of livestock.”¹⁹ Reliance on a banking institution to not make mistakes or fail altogether “fails to fulfill respondent’s obligation under statutory and regulatory requirements[.]”²⁰

* “The Complaint, at page 5, section IV(a), alleges approximately 30 incidents where bank fees were charged supporting the allegation of Respondents’ misuse of their custodial account. Specifically, on September 6 and September 11, 2018, the Respondents’ custodial account was charged two charges in the amount of \$29.43 each for a ‘return check charge.’” Proposed Decision at 2 n.1.

¹⁹ See *Garver*, 45 Agric. Dec. 1090, 1094 (U.S.D.A. 1986); see also *Ozark Cty. Cattle Co.*, 49 Agric. Dec. 336, 363 (U.S.D.A. 1990) (“The delay in payment was a violation, and such delays frequently have a deleterious ripple effect across the industry, which the Act seeks to prevent.”); *Great American Veal, Inc.*, 48 Agric. Dec. 183, 211 (U.S.D.A. 1989) (“The real damage to the livestock growers in this case is that they were not paid promptly or in full for their livestock. . . . That damage is the same regardless of the reasons underlying respondents’ payment violations.”).

²⁰ See *Garver*, 45 Agric. Dec. at 1094; see also *Palmer*, 50 Agric. Dec. 1762, 1773-77 (U.S.D.A. 1991); *Finger Lakes Livestock Exchange, Inc.*, 48 Agric. Dec. 390, 401-03 (U.S.D.A. 1989) (“In the administration of the Packers and Stockyards Act, we are particularly concerned with the adequacy of capital to

Where, as in the present case, a complainant moves for default and the respondent files no meritorious objections,²¹ the Rules of Practice provide that decision and order shall be entered without further procedure:

The failure to file an answer, or the admission by the answer of all the material allegations of fact contained in the complaint, shall constitute a waiver of hearing. Upon such admission or failure to file, complainant shall file a proposed decision, along with a motion for the adoption thereof, both of which shall be served upon the respondent by the Hearing Clerk. Within 20 days after service of such motion and proposed decision, the respondent may file with the Hearing Clerk objections thereto. If the Judge finds that meritorious objections have been filed, complainant's Motion shall be denied with supporting reasons. *If meritorious objections are not filed, the Judge shall issue a decision without further procedure or hearing.*

7 C.F.R. § 1.139 (emphasis added). Having carefully considered the pleadings, relevant authorities, and arguments of the parties, the following Findings of Fact, Conclusions, and Order are entered without further procedure or hearing pursuant to sections 1.136(c) and 1.139 of the Rules of Practice (7 C.F.R. §§ 1.136(c) and 1.139).

Findings of Fact

permit prompt payment for livestock and to meet current operating expenses. A registrant is considered to be engaging in an unfair practice if he operates while his current liabilities exceed his current assets, or if he is unable to meet his obligations as they become due in the normal course of business. . . .”).

²¹ United States Postal Service records reflect that the Motion for Default and Proposed Decision were sent to Respondents via certified mail and delivered on July 22, 2019. Respondents 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, Respondents' objections were due on or before August 12, 2019. Respondents have not filed any objections.

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1. Respondent Quinter Livestock Market, LLC (“Respondent Quinter”) is a limited liability company whose business mailing address is 7099 Highway 40, Quinter, Kansas 67752.
2. Respondent Quinter is, and at all times material herein, was:
 - a. Engaged in the business of a dealer buying and selling livestock in commerce;
 - b. Engaged in the business of a market agency buying and selling consigned livestock in commerce on a commission basis; and
 - c. Registered with the Secretary of Agriculture as a dealer buying and selling livestock in commerce and as a market agency buying and selling livestock in commerce on a commission basis.
3. Respondent Clint Kvasnicka (“Respondent Kvasnicka”) is an individual whose current address is in the State of Kansas. The address will not be stated in this Decision and Order to protect Respondent Kvasnicka’s privacy but has been provided to the Hearing Clerk, United States Department of Agriculture, for service purposes.
4. Respondent Kvasnicka is, and at all times material herein, was:
 - a. General Manager, a member, a co-owner, and President of Quinter Livestock LLC;
 - b. Responsible for the day-to-day direction, management, and control of Respondent Quinter;
 - c. Engaged in the business of a dealer buying and selling livestock in commerce; and
 - d. Engaged in the business of a market agency buying and selling consigned livestock in commerce on a commission basis.

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5. On August 10, 2017, the Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration²² sent Respondents a Notice of Violation (“NOV”), via certified mail, informing Respondents that Respondent Quinter had failed to maintain its custodial account and operated with a custodial account shortage in violation of sections 307 and 312 of the Act (7 U.S.C. §§ 208 and 213) and section 201.42 of the Regulations (9 C.F.R. § 201.42). Further, in the same NOV, the Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration informed Respondents that Respondents had failed to make prompt payment for certain livestock purchases during the period of January 2017 through May 2017. The NOV further informed Respondents that failure to pay for livestock by close of the next business day is a violation of the Act and Regulations and that failure to correct their business practices and bring them into statutory and regulatory compliance could subject them to disciplinary action. Notwithstanding the NOV, Respondents continued to misuse custodial-account funds and operate with a custodial-account shortage and continued to engage in the business as a dealer buying and selling livestock in commerce without paying, when due, the full purchase price of the livestock, as required by the Act.

6. From October 2017 through July 2018, Respondent Quinter, under the direction, management, and control of Respondent Kvasnicka, failed to properly maintain Respondents’ custodial account, thereby endangering the faithful and prompt accounting of shippers’ proceeds and the payments due to the owners or consignors of livestock, in that:

a. As of October 31, 2017, Respondents had outstanding checks drawn on their custodial account in the amount of \$61,254.98 and had to offset such checks, a balance in the custodial account of \$91.44 and proceeds receivable of \$0, resulting in a custodial-account shortage in the amount of \$61,163.54.

b. As of May 18, 2018, Respondents had outstanding checks drawn on their custodial account in the amount of \$84,084.74 and had to offset such checks, a negative balance in the custodial account of \$64,880.87,

²² Now the Packers and Stockyards Division, Fair Trade Practices Program of the Agricultural Marketing Service.

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and proceeds receivable of \$8,592.50, resulting in a custodial-account shortage in the amount of \$140,173.11.

c. As of June 30, 2018, Respondents had outstanding checks drawn on their custodial account in the amount of \$58,547.70 and had to offset such checks, a negative balance in the custodial account of \$50,426.31, and proceeds receivable of \$0, resulting in a custodial-account shortage in the amount of \$108,974.01.

d. As of November 30, 2018, Respondents had outstanding checks drawn on their custodial account in the amount of \$24,415.04 and had to offset such checks, a balance in the custodial account of \$183.16, and proceeds receivable of \$0, resulting in a custodial-account shortage in the amount of \$24,231.88.

e. The shortages in Respondent’s custodial account were due, in part, to Respondents’ failure to deposit into the custodial account an amount equal to the proceeds receivable from the sale of consigned livestock within the time prescribed by section 201.42 of the Regulations (9 C.F.R. § 201.42).

7. The shortages in Respondents’ custodial account during the period January 1, 2018 through June 30, 2018, as set forth in paragraph 6 above, also were due in part to Respondents’ misuse of custodial-account funds. Respondent Quinter, under the direction, management, and control of Respondent Kvasnicka, on or about the dates set forth below, permitted \$9,351.97²³ in bank fees to be charged to its custodial account:

Date	Description	Amount
1/2/2018	Overdraft Charge	\$201.74
1/3/2018	Overdraft Charge	\$28.82
1/4/2018	Overdraft Charge	\$28.82
1/5/2018	Overdraft Charge	\$57.64
1/12/2018	Overdraft Charge	\$28.82
1/16/2018	Overdraft Charge	\$57.64
1/17/2018	Overdraft Charge	\$86.46

²³ Amount revised from \$9,411.83 as stated at Complaint section IV(a) (page 5), to current amount \$9,351.97, to reflect two “return check fees” withdrawn from the allegations (September 6, 2018, and September 11, 2018, each \$29.93).

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1/18/2018	Overdraft Charge	\$259.38
1/19/2018	Overdraft Charge	\$57.64
1/22/2018	Overdraft Charge	\$57.64
1/23/2018	Overdraft Charge	\$57.64
1/24/2018	Overdraft Charge	\$144.10
1/25/2018	Overdraft Charge	\$28.82
1/29/2018	Overdraft Charge	\$28.82
1/31/2018	Overdraft Charge	\$172.92
1/31/2018	Service Charge	\$8.33
2/1/2018	Overdraft Charge	\$144.10
2/2/2018	Overdraft Charge	\$115.28
2/5/2018	Overdraft Charge	\$115.28
2/6/2018	Overdraft Charge	\$172.92
2/7/2018	Overdraft Charge	\$144.10
2/8/2018	Overdraft Charge	\$86.46
2/9/2018	Overdraft Charge	\$86.46
2/12/2018	Overdraft Charge	\$57.64
2/13/2018	Overdraft Charge	\$57.64
2/14/2018	Overdraft Charge	\$259.38
2/15/2018	Overdraft Charge	\$28.82
2/20/2018	Overdraft Charge	\$28.82
2/21/2018	Overdraft Charge	\$57.64
2/22/2018	Overdraft Charge	\$172.92
2/23/2018	Overdraft Charge	\$115.28
2/26/2018	Overdraft Charge	\$57.64
2/27/2018	Overdraft Charge	\$28.82
2/28/2018	Overdraft Charge	\$144.10
2/28/2018	Service Charge	\$8.33
3/1/2018	Overdraft Charge	\$230.56
3/2/2018	Overdraft Charge	\$86.46
3/5/2018	Overdraft Charge	\$57.64
3/6/2018	Overdraft Charge	\$86.46
3/7/2018	Overdraft Charge	\$115.28
3/8/2018	Overdraft Charge	\$28.82
3/9/2018	Overdraft Charge	\$115.28
3/12/2018	Overdraft Charge	\$57.64
3/13/2018	Overdraft Charge	\$57.64
3/14/2018	Overdraft Charge	\$172.92
3/15/2018	Overdraft Charge	\$57.64
3/16/2018	Overdraft Charge	\$28.82
3/19/2018	Overdraft Charge	\$201.74
3/20/2018	Overdraft Charge	\$86.46
3/21/2018	Overdraft Charge	\$28.82
3/28/2018	Overdraft Charge	\$317.02

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3/29/2018	Overdraft Charge	\$86.46
3/30/2018	Overdraft Charge	\$86.46
3/31/2018	Service Charge	\$8.33
4/2/2018	Overdraft Charge	\$28.82
4/3/2018	Service Charge	\$115.28
4/19/2018	Mobile Deposit Fee	\$0.50
4/19/2018	Mobile Deposit Fee	\$0.50
4/24/2018	Overdraft Charge	\$28.82
4/30/2018	Overdraft Charge	\$28.82
5/1/2018	Overdraft Charge	\$57.64
5/2/2018	Overdraft Charge	\$57.64
5/3/2018	Overdraft Charge	\$86.48
5/4/2018	Mobile Deposit Fee	\$0.50
5/4/2018	Overdraft Charge	\$57.64
5/7/2018	Overdraft Charge	\$144.10
5/9/2018	Overdraft Charge	\$57.64
5/10/2018	Overdraft Charge	\$144.10
5/11/2018	Overdraft Charge	\$115.28
5/15/2018	Overdraft Charge	\$57.64
5/16/2018	Overdraft Charge	\$28.82
5/17/2018	Overdraft Charge	\$144.10
5/18/2018	Overdraft Charge	\$86.46
5/21/2018	Mobile Deposit Fee	\$0.50
5/21/2018	Overdraft Charge	\$144.10
5/22/2018	Service Charge	\$259.38
5/23/2018	Overdraft Charge	\$230.56
5/24/2018	Overdraft Charge	\$57.64
5/25/2018	Overdraft Charge	\$86.46
5/29/2018	Mobile Deposit Fee	\$0.50
5/29/2018	Mobile Deposit Fee	\$0.50
5/29/2018	Mobile Deposit Fee	\$0.50
5/29/2018	Overdraft Charge	\$115.28
5/30/2018	Overdraft Charge	\$57.54
5/31/2018	Overdraft Charge	\$28.82
5/31/2018	Service Charge	\$8.33
6/1/2018	Overdraft Charge	\$57.64
6/4/2018	Overdraft Charge	\$28.82
6/6/2018	Mobile Deposit Fee	\$0.50
6/6/2018	Overdraft Charge	\$115.28
6/7/2018	Overdraft Charge	\$114.10
6/8/2018	Overdraft Charge	\$57.64
6/11/2018	Overdraft Charge	\$28.82
6/12/2018	Overdraft Charge	\$57.64
6/13/2018	Overdraft Charge	\$86.46

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6/14/2018	Overdraft Charge	\$57.64
6/15/2018	Overdraft Charge	\$86.46
6/18/2018	Overdraft Charge	\$28.82
6/19/2018	Overdraft Charge	\$28.82
6/20/2018	Overdraft Charge	\$144.10
6/21/2018	Mobile Deposit Fee	\$86.46
6/22/2018	Mobile Deposit Fee	\$0.50
6/25/2018	Overdraft Charge	\$172.92
6/27/2018	Overdraft Charge	\$0.50
6/27/2018	Overdraft Charge	\$0.50
6/27/2018	Service Charge	\$115.28
6/28/2018	Overdraft Charge	\$28.82
6/29/2018	Overdraft Charge	\$28.82
6/30/2018	Mobile Deposit Fee	\$8.33
7/2/2018	Overdraft Charge	\$57.64
7/3/2018	Overdraft Charge	\$57.64
7/5/2018	Mobile Deposit Fee	\$0.50
7/5/2018	Overdraft Charge	\$86.46
7/9/2018	Overdraft Charge	\$28.82
7/18/2018	Return Check Charge	\$29.93
7/23/2018	Mobile Deposit Fee	\$0.50
7/23/2018	Return Check Charge	\$29.93
7/31/2018	Return Check Charge	\$29.93
7/31/2018	Service Charge	\$8.33
8/14/2018	Mobile Deposit Fee	\$0.50
8/22/2018	Return Check Charge	\$29.93
8/27/2018	Return Check Charge	\$29.93
9/27/2018	Return Check Charge	\$29.93
9/28/2018	Mobile Deposit Fee	\$0.50
10/4/2018	Return Check Charge	\$29.93
10/12/2018	Return Check Charge	\$59.86
10/26/2018	Overdraft Charge	\$28.82
11/21/2018	Return Check Charge	\$29.93
11/26/2018	Return Check Charge	\$29.93
11/29/2018	Return Check Charge	\$29.93

8. On or about the dates and in the transactions set forth below, Respondents failed to pay, when due, the full purchase price of such livestock.

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Purchase Date	Seller's Name	# of Head	Livestock Amount	Net Invoice Adjustments	Net Invoice	Due Date	Payment Date	Payment Amount	Days Late Per Instrument Date	Date Cleared Bank	Instrument Date to Date Cleared
3/8/18	Colby Livestock Auction, LLC	4	\$2,763.03	\$50.00	\$2,813.03	3/9/18	3/26/18		17		
3/15/18	Colby Livestock Auction, LLC	10	\$6,194.30	\$203.55	\$6,397.85	3/16/18	3/26/18		10	3/29/18	3
	subtotals²⁴	14	\$8,957.33	\$253.55	\$9,120.88		3/26/18	\$9,120.88		3/29/18	3
3/29/18	Colby Livestock Auction, LLC	3	\$4,109.65	\$28.35	\$4,138.00	3/30/18	4/2/18	\$4,138.00	3	4/4/18	2
4/10/18	Wakeeney Livestock, LLC	8	\$4,318.50		\$4,318.50	4/11/18	4/16/18	\$4,318.50	5	4/20/18	4
3/13/18	Plainville Livestock Commission, Inc.	31	\$25,917.35		\$25,917.35	3/14/18	3/16/18	\$25,917.35	2	3/20/18	4
4/10/18	Plainville Livestock Commission, Inc.	64	\$53,232.8		\$53,232.83	4/11/18	4/30/18	\$53,232.83	19	5/2/18	2
4/17/18	Plainville Livestock Commission, Inc.	46	\$34,995.05		\$24,995.05	4/18/18	5/7/18	\$34,995.05	19	5/9/18	2

²⁴ Subtotals are included because sellers paid for more than one transaction with one check.

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4/19/18	Oakley Livestock Commission Co., Inc.	3	\$2,500.00		\$2,500.00	4/20/18	4/23/18		3		
4/19/18	Colby Livestock Auction, LLC	14	\$8,393.90	\$193.43	\$8,587.33	4/20/18	4/23/18		3		
4/12/18	Colby Livestock Auction, LLC	1	\$464.40		\$464.40	4/13/18	4/23/18		10		
	subtotals	18	\$11,358.30	\$193.43	\$11,551.73		4/23/18	\$11,551.73		4/27/18	4
	TOTALS	184	\$142,889.01	\$475.33	\$143,364.34			\$143,364.34			

9. During the period of July 10, 2017 through August 21, 2017, in eight of the transactions involving six different livestock sellers, Respondents issued checks in payment for livestock purchases, which checks were returned unpaid by the bank upon which they were drawn because Respondents did not have and maintain sufficient funds on deposit and available in the accounts upon which such checks were drawn to pay such checks when presented.

10. By issuing insufficient funds checks in the eight transactions in paragraph VI(a) of the Complaint, Respondents failed to pay, when due, the full purchase price of livestock.

Conclusions

1. The Secretary of Agriculture has jurisdiction over the parties and the subject matter.
2. Respondents Quinter Livestock Market, LLC and Clint Kvasnicka have willfully violated sections 307, 312(a), and 409 of the Packers and Stockyards Act (7 U.S.C. §§ 208, 213(a), and 228b); and section 201.42 of the Regulations promulgated thereunder (9 C.F.R. § 201.42).
3. The following Order is authorized by the Act and warranted under the circumstances.

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ORDER

1. AMS's Motion for Decision Without Hearing is GRANTED.
2. Respondents Quinter Livestock Market, LLC and Clint Kvasnicka, their agents and employees, 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 Packers and Stockyards Act without paying timely for each and every livestock transaction and purchase from sellers of livestock and shall cease and desist from issuing checks without sufficient funds to pay those checks.
3. Respondents Quinter Livestock Market, LLC and Clint Kvasnicka are suspended as registrants from all livestock operations as a market agency buying and selling consigned livestock in commerce on a commission basis and as a dealer for a period of five (5) years from the date when this Decision and Order becomes final.

Finality

This Decision and Order becomes final and effective without further proceedings thirty-five (35) days after the date of service upon Respondents, unless appealed to the Judicial Officer by a party to the proceeding by filing with the Hearing Clerk within thirty (30) days pursuant to section 1.145 of the Rules of Practice (7 C.F.R. § 1.145). *See* Appendix A.

Copies of this "Decision and Order on the Written Record (Ruling GRANTING Complainant AMS's Motion for Decision Without Hearing)" shall be sent by the Hearing Clerk to each of the parties. The Hearing Clerk will use **both** certified mail and regular mail for Respondents, and as a courtesy will in addition email Respondent Clint Kvasnicka at the email address he used to reach the Hearing Clerk.

Miscellaneous Orders & Dismissals
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MISCELLANEOUS ORDERS & DISMISSALS

Editor's Note: This volume continues the new format of reporting Administrative Law Judge orders involving non-precedent matters [Miscellaneous Orders] with the sparse case citation but without the body of the order. Substantive Miscellaneous Orders (if any) issued by the Judicial Officer will continue to be reported here in full context. The parties in the case will still be reported in Part IV (List of Decisions Reported – Alphabetical Index). Also, the full text of these cases will continue to be posted in a timely manner at: <https://oalj.oha.usda.gov/current>.

PACKERS AND STOCKYARDS ACT

**In re: SAM KANE BEEF PROCESSORS, LLC.
Docket No. 18-0046.
Dismissal.
Filed June 1, 2020.**

PACKERS AND STOCKYARDS ACT

DEFAULT DECISIONS

Editor's Note: This volume continues the new format of reporting Administrative Law Judge orders involving non-precedent matters [Default Orders] with the sparse case citation but without the body of the order. Default Orders (if any) issued by the Judicial Officer will continue to be reported here in full context. The parties in the case will still be reported in Part IV (List of Decisions Reported – Alphabetical Index). Also, the full text of these cases will continue to be posted in a timely manner at: <https://oalj.oha.usda.gov/current>].

PACKERS AND STOCKYARDS ACT

**In re: MARK ROBINSON, d/b/a ROBINSON LIVESTOCK.
Docket No. 19-J-0122.
Default Decision and Order.
Filed January 9, 2020.**

**In re: CHRISTOPHER MATTHEW KLAIBER.
Docket No. 19-J-0154.
Default Decision and Order.
Filed February 4, 2020.**

**In re: KYLE SORRELS.
Docket No. 19-J-0150.
Default Decision and Order.
Filed March 3, 2020.**

**In re: WILLIS B. GREGORY.
Docket No. 20-J-0030.
Default Decision and Order.
Filed May 12, 2020.**

**In re: SCOTT DETERS, d/b/a SCOTT DETERS LIVESTOCK
COMPANY.
Docket No. 19-J-0149.
Default Decision and Order.
Filed May 19, 2020.**

CONSENT DECISIONS

PACKERS AND STOCKYARDS ACT

In re: ASHVILLE STOCKYARD, INC.; BRADLEY M. PLUNKETT; and TILDA PLUNKETT.

Docket Nos. 19-J-0094, 19-J-0085, 19-J-0086.

Consent Decision and Order.

Filed January 2, 2020.

In re: SUGARCREEK LIVESTOCK AUCTION, INC.; and LEROY H. BAKER, JR.

Docket Nos. 19-J-0087, 19-J-0088.

Consent Decision and Order.

Filed January 7, 2020.

In re: GREAT LAKES CATTLE MARKETING COMPANY, LLC; and GARY LABOR.

Docket Nos. 19-J-0134, 19-J-0135.

Consent Decision and Order.

Filed January 13, 2020.

In re: EUGENE NISLY, d/b/a CARROLLTON LIVESTOCK AUCTION.

Docket No. 20-J-0033.

Consent Decision and Order.

Filed January 31, 2020.

In re: MCCS LIVESTOCK, INC., d/b/a LEFORE COUNTRY LIVESTOCK AUCTION.

Docket No. 20-J-0034.

Consent Decision and Order.

Filed February 4, 2020.

In re: SALVATORE ANTHONY DIMARIA; and ADD ENTERPRISES, INC.

Docket Nos. 19-J-0124, 19-J-0125.

Consent Decision and Order.

Filed February 12, 2020.

PACKERS AND STOCKYARDS ACT

In re: EUCLID STOCKYARDS, INC.; and JEREMY T. GORHAM.
Docket Nos. 19-J-0106, 19-J-0107.
Consent Decision and Order.
Filed March 12, 2020.

In re: BARTELS PACKING, INC., d/b/a BARTELS FARMS.
Docket No. 19-J-0115.
Consent Decision and Order.
Filed March 27, 2020.

In re: CHRISTOPHER J. BARTELS.
Docket No. 19-J-0116.
Consent Decision and Order.
Filed March 30, 2020.

In re: JOHN B. HAGLER.
Docket No. 19-J-0078.
Consent Decision and Order.
Filed April 16, 2020.

In re: LARSON LIVESTOCK, INC.; and CARSON LARSON.
Docket Nos. 19-J-0073, 19-J-0074.
Consent Decision and Order.
Filed April 17, 2020.

In re: H & H CATTLE SERVICES, LLC; and CECIL W. HATCHER.
Docket Nos. 20-J-0015, 20-J-0016.
Consent Decision and Order.
Filed April 20, 2020.

In re: DARREN ROBERSON, d/b/a ROCK'N R CATTLE.
Docket No. 20-J-0008.
Consent Decision and Order.
Filed May 8, 2020.

Consent Decisions
79 Agric. Dec. 309 – 311

In re: MITCHELL LEE BARTHEL, d/b/a ROCK’N M CATTLE.
Docket No. 19-J-0083.
Consent Decision and Order.
Filed May 11, 2020.

In re: MIKE PERSCHBACHER.
Docket No. 20-J-0013.
Consent Decision and Order.
Filed May 27, 2020.

In re: ALVIN E. DOWNEY, d/b/a CBI LIVESTOCK BROKERS.
Docket No. 20-J-0130.
Consent Decision and Order.
Filed June 4, 2020.

In re: COLBY LIVESTOCK AUCTION, LLC; and LELAND WILSON.
Docket Nos. 20-J-0024, 20-J-0025.
Consent Decision and Order.
Filed June 9, 2020.
