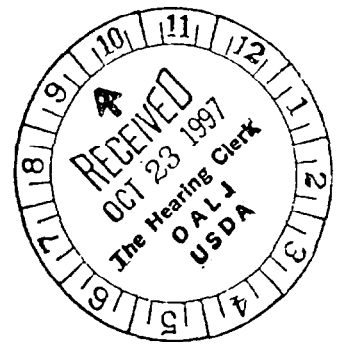


UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) P & S Docket No. D-96-48
)
John Carl Stephens d/b/a)
Carl Stephens,)
) Decision Without Hearing
) by Reason of Admissions
Respondent)

Preliminary Statement

This disciplinary proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. §181 et seq.), hereinafter referred to as the "Act", by a complaint filed on August 30, 1996, by the Acting Deputy Administrator, Packers and Stockyards Programs, GIPSA, United States Department of Agriculture, alleging that the respondent willfully violated the Act. It is alleged in the complaint that the respondent (1) had current liabilities that exceeded current assets; (2) issued checks in purported payment for livestock purchases without having sufficient funds on deposit and available in the account upon which such checks are drawn to pay such checks when presented; and (3) failed to pay, when due, the full purchase price of livestock.

A copy of the complaint was served upon respondent on September 3, 1996 by certified mail. In an answer that was received by the Hearing Clerk on September 26, 1996, respondent Carl Stephens admitted to the allegations set forth in the complaint. Respondent's answer constitutes an admission of all the material allegations of fact contained in the complaint pursuant to Section 1.136 of the Rules of Practice (7 C.F.R. § 1.136). The admission in the

answer of all the material allegations of fact contained in the complaint further constitutes a waiver of hearing pursuant to Section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Complainant moved for the issuance of a Decision, pursuant to Section 1.139 of the Rules of Practice. Therefore, the following Decision and Order is issued without further investigation or hearing pursuant to Section 1.139 of the Rules of Practice.

Findings of Fact

1. John Carl Stephens, d/b/a Carl Stephens, hereinafter referred to as respondent, is an individual whose mailing address is P.O. Box 513, Irwinville, Georgia 31760.
2. Respondent is and at all times material herein was:
 - a. Engaged in the business of a market agency buying livestock on a commission basis and in the business of a dealer buying livestock in commerce for his own account; and
 - b. Registered with the Secretary of Agriculture as a market agency to sell livestock in commerce on a commission basis and as a dealer to buy livestock in commerce for his own account.
3. As more fully set forth in paragraph II of the complaint, respondent's current liabilities exceeded his current assets by \$172,013.65 as of September 30, 1995.
4. As more fully set forth in paragraph III of the complaint, respondent issued checks in purported payment for livestock purchases without having sufficient funds on deposit and available in the account upon which such checks are drawn to pay such checks when presented, and respondent failed to pay, when due, the full purchase price of livestock.

Conclusions

By reason of the facts found in Findings of Fact No. 3 above, respondent's financial condition does meet the requirements of the Act pursuant to 7 U.S.C. § 204. By reason of the facts found in Findings of Fact No. 4 above, respondent has willfully violated section 312(a) of the Act (7 U.S.C. § 213(a)) and section 409 of the Act (7 U.S.C. § 228b) for which the Order below is issued.

Order

Respondent John Carl Stephens, 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. Allowing current liabilities to exceed current assets, a financial condition which does not comply with the requirements of the Act;
2. Issuing checks in purported payment for livestock purchases without having sufficient funds on deposit and available in the account upon which such checks are drawn to pay such checks when presented; and
3. Failing to pay, when due, the full purchase price of livestock.

Respondent John Carl Stephens is suspended as a registrant under the Act for a period of 28 days and thereafter until respondent has demonstrated solvency. When respondent demonstrates that current liabilities no longer exceed current assets, a supplemental order will be issued terminating the suspension after the expiration of the 28-day period of suspension.

Pursuant to the Rules of Practice governing procedures under the Act, this Decision will 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 hereof shall be served upon the parties.

Done at Washington, D. C.

this 21st day of November



Administrative Law Judge