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UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

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In re:

Robert Schenk

Respondent

) P. & S. Docket No. D-00-0004  
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DECISION WITHOUT HEARING  
BY REASON OF DEFAULT

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.) herein referred to as the Act, instituted by a complaint filed by the Administrator, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, charging that the Respondent wilfully violated the Act.

Copies of the complaint and the Rules of Practice (7 C.F.R. §1.130 et seq.) governing proceedings under the Act were served upon Respondent by certified mail on April 11, 2000. Respondent was informed in a letter of service that an Answer should be filed pursuant to the Rules of Practice and that failure to answer would constitute an admission of all the material allegations contained in the complaint.

Respondent has failed to file an Answer within the time prescribed in the Rules of Practice, and the facts alleged in the complaint, which are admitted by Respondent's failure to file an Answer, are adopted and set forth herein as findings of fact.

This Decision and Order, therefore, is issued pursuant to section 1.139 of the Rules of Practice (7 C.F.R. §1.139).

#### Findings of Fact

1. Robert Schenk, hereinafter referred to as the Respondent, is a individual doing business in the State of Michigan, and whose business mailing address is 4435 E. Lochalpine, Ann Arbor, Michigan 48106.

2. Respondent is, and at all times material herein was:

(a) Engaged in business as a market agency buying livestock in commerce on a commission basis; and

(b) Registered with the Secretary of Agriculture as a market agency to buy livestock in commerce on a commission basis.

3. Respondent, in connection with his operations subject to the Act, was served with a letter of notice on June 23, 1999, as set forth in paragraph II in the complaint informing him that he was required to obtain a surety bond or its equivalent in the amount of \$50,000.00 before continuing his livestock operation to secure the performance of its livestock obligations under the Act. Notwithstanding such notice, Respondent failed to obtain the bond and has continued to engage in the business of a market agency without maintaining an adequate bond or its equivalent as required by the Act and regulations.

#### Conclusions

By reason of the facts found in the Finding of Facts herein, Respondent has willfully violated section 312(a) of the

Act (7 U.S.C. § 213(a)), and sections 201.29 and 201.30 of the regulations (9 C.F.R. §§ 201.29, 201.30)

Order

Respondent Robert Schenk, his agents and employees, directly or indirectly through any corporate or other device, in connection with his operations subject to the Packers and Stockyards Act, shall cease and desist from engaging in business in any capacity for which bonding is required under the Packers and Stockyards Act, as amended and supplemented, and the regulations without filing and maintaining an adequate bond or its equivalent, as required by the Act and the regulations.

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondent is hereby assessed a civil penalty in the amount of two thousand five hundred dollars (\$2,500.00). This Decision shall become final and effective without further proceedings 35 days after the date of service upon the Respondent, unless it is appealed to the Judicial Officer by a party to the proceeding within 30 days pursuant to section 1.145 of the Rules of Practice (7 C.F.R. §1.145).

Copies hereof shall be served upon the parties.

Done at Washington, D.C.

this 16th day of August, 2000

  
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JAMES W. HUNT

Administrative Law Judge