UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	P & S Docket No. D-03-0019
	)	
Joshua L Martin d/b/a	)	
Martins Livestock,	)	
	)	
	)	
Respondent	)	

Decision Without Hearing by Reason of Default

Preliminary Statement

This proceeding was instituted under the Packers and Stockyard Act (7 U.S.C. §181 et. seq.) by a complaint filed by the Deputy Administrator, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that the Respondent willfully violated the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. §181 et seq.). 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 et seq.), hereinafter the Rules of Practice, were mailed to Respondent by certified mail on August 14, 2003, and were received on August 16, 2003.

Accompanying the complaint was a cover letter informing Respondent that an answer must be filed within twenty (20) days of service and that failure to file an answer would constitute an admission of all of the material allegations in the complaint and a waiver of the right to an oral hearing.

Respondent has failed to file an answer within the time period required by the Rules of Practice (7 C.F.R. §1.136), and the material 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, are issued pursuant to section 1.139 of the Rules of Practice (7 C.F.R. §1.139).

Findings of Fact

(1) Joshua L. Martin is an individual doing business as Martins Livestock, hereinafter referred to as Respondent. His business mailing address is 17223 Reiff Church Road, Hagerstown, Maryland 21740.

(2) The Respondent, at all times material herein, was engaged in the business of a dealer buying and selling livestock in commerce for his own account, and as a market agency buying livestock on a commission basis.

(3) The Respondent, at all times material herein, was registered with the Secretary of Agriculture as a dealer and as a market agency to buy livestock on a commission basis.

(4) Respondent purchased livestock, and in purported payment thereof, issued checks that were returned unpaid by the bank upon which they were drawn because Respondent did not have sufficient funds available in the account upon the checks were drawn to pay the checks when presented.

Seller	Purchase Date	Date Due Per §409	Invoice Amount	Check No.	Check Date	Check Amount	Date Returned NSF	Balance Due
Lynchburg Livestock Market, Inc.	7/01/02	7/02/02	$51,593.29	11585	7/01/02	$51,593 29	7/8/02	(Note 1)
Pmt. from sale 7/8/02 *Pmt. from sale 7/8/02* *Wire Transfer 8/02/02*						(10,569 85) (10,569.88) (2,000.00)		(Note 2) (Note 2) $28,453.56
Four States' Livestock Sales *Pmt. from sale 7/31/02*	7/18/02	7/19/02	$18,971.61	11622 11633	7/23/02 7/31/02	$18,971.61 15,341 37 (3,630.24)	N/A 8/01/02	(Note 3) (Note 4) $15,341.37
Four States' Livestock Sales	7/24/02	7/25/02	$21,439 37	11635	7/31/02	$21,439.37	8/01/02	$21,439.37
Westminster Livestock Auction	7/23/02	7/24/02	$13,517.40	11634	7/31/02	$13,517.40	8/01/02	$13,517.40
Rockridge 4-H Livestock Advisory Committee	7/24/02	7/26/02 Total Less Cash & other Cattle	$8,785.25 1,115 70 9,900 95 ($3,250.95) $6,650.00	No	Check	Issued		 $6,650.00

Footnote 1: Respondent issued check number 11585 in payment for livestock. This check was returned NSF
Footnote 2: Respondent sold livestock at Lynchburg on July 8, 2002 and the proceeds from this sale were applied to Respondent's outstanding balance
Footnote 3: Payment was stopped on this check, however, Respondent was unable to provide proof that a stop payment was issued.
Footnote 4: Respondent sold livestock at Four States on July 31, 2002, and the proceeds from this sale were applied to Respondent's outstanding balance

(5)   Respondent failed to remit, when due, the full price of the livestock that

Respondent purchased.

(6)   Respondent failed to remit the full price of livestock that Respondent purchased. A

total of $85,401.70 for livestock purchases remains unpaid.

3

Order

By reason of the facts set forth in Findings of Fact 4, 5 and 6,

Respondent has willfully violated sections 312(a) and 409 of the Act (7 U.S.C.

§§ 213,228(b)).

Joshua L. Martin, 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
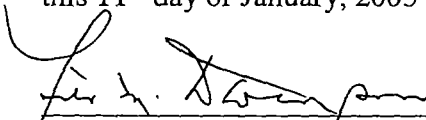
cease and desist from:

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 remit, when due, the full purchase price of livestock; and

3.   Failing to remit the full purchase price of livestock.

Respondent is hereby suspended as a registrant under the Act for a period of five (5) years;

provided, however, that upon application to Packers and Stockyards Programs a supplemental

order may be issued terminating the suspension of the Respondent at any time after 150 days

upon demonstration of circumstances warranting modification of the order. Further, 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 the

150 day period of suspension, upon demonstration of circumstances warranting modification

of the order.

This decision and order shall become final and effective without further proceedings thirty-five (35) days after service on Respondents, if it is not appealed to the Judicial Officer by a party to the proceeding within thirty (30) days, pursuant to section 1.145 of the Rules of Practice (7 C.F.R. § 1.145).

Copies of this decision shall be served upon the parties.

Done at Washington, D.C.
this 11th day of January, 2005

PETER M. DAVENPORT
Administrative Law Judge