

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
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Harrington Cattle Co., L.L.C.,) P. & S. Docket No. D-05-0013
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Respondent.)
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DECISION WITHOUT HEARING BY REASON OF DEFAULT

Preliminary Statement

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.) (“Act”), by a Complaint filed on May 25, 2005, by the Deputy Administrator, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that the Respondent willfully violated the Act and regulations promulgated thereunder (9 C.F.R. § 201.1 et seq.). The complaint and a copy of the Ruled of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 et seq.) (“Rules of Practice”) were mailed by certified mail to Respondent’s business mailing address. On June 14, 2005, the Complaint came back as other than “unclaimed” or “refused.” On January 5, 2006, an employee of the Department of Agriculture, Lowell E. Phelps, served the Complainant on the Nebraska Secretary of State’s Agent of Record for Respondent, Robert William Chapin, Jr., by personal service as is permitted by the Rules of Practice section 1.147(c)(3)(i) (7 C.F.R. § 1.147(c)(3)(I)) at 421 South 9th Street, Suite 245, Lincoln, Nebraska 68508. 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 the material allegations in the complaint and a waiver of the right to an oral hearing.

Respondent 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 in this decision as findings of fact.

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

Findings of Fact

1. Harrington Cattle Company, L.L.C. (hereinafter "Respondent") is a limited liability company organized and existing under the laws of the State of Nebraska. Respondent's business mailing address is Post Office Box 108, Hickman, Nebraska 68372.

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

(1) Engaged in the business of a market agency, buying on commission; and

(2) Registered with the Secretary of Agriculture as a market agency buying on commission, and as a dealer to buy and sell livestock in commerce for its own account.

3. The Respondent was notified by letter dated May 25, 2001 that its trust fund agreement would terminate on June 15, 2001. That same letter stated that Respondent was required to obtain a new bond or bond equivalent in the amount of \$20,000 on or before June 15, 2001 to secure the performance of its livestock obligations under the Act. Notwithstanding that notice, the Respondent continued to engage in the business of a market agency buying on commission without maintaining an adequate bond or its equivalent

Conclusions

By reason of the facts alleged in Finding of Fact 3, 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 and 201.30).

Respondent did not file an answer within the time period prescribed by section 1.136 of the Rules of Practice (7 C.F.R. § 1.136), which constitutes an admission of all the material allegations in the Complaint. Complainant has moved for the issuance of a Decision Without Hearing by Reason of Default, pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139). Accordingly, this decision is entered without hearing or further procedure.

Order

Respondent Harrington Cattle Co., L.L.C., its agents and employees, directly or indirectly through any corporate or other device, in connection with its 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 equivalent, as required by the Act and the regulations.

Respondent is suspended as a registrant under the Act until it complies fully with the bonding requirements under the Act and the regulations. Provided, however, that upon application to the Packers and Stockyards Administration, a supplemental order will be issued in this proceeding terminating the suspension upon Respondent's demonstration that it is in full compliance with the bonding requirements of the Act.


In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondent is assessed

a civil penalty in the amount of one thousand dollars (\$1000).

This decision and order shall become final and effective without further proceedings thirty-five days (35) after service on Respondent, 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 order shall be served on the parties.

Done as Washington, D.C.
this 11th day of April, 2006



Administrative Law Judge