

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0166

In re: Gary Craig, d/b/a Craig Sheep
Farm, Mingis Farms,
and Triple C Sheep Farm,

Respondent

Default Decision and Order

Preliminary Statement

This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.) (Act), by a Complaint filed on January 10, 2012 by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture.

On January 10, 2012, a copy of the Complaint was mailed by the Hearing Clerk to Respondent by certified mail. The Hearing Clerk sent a cover letter with the Complaint and Notice of Hearing along with a copy of the Rules of Practice governing the proceeding. The cover letter stated that Respondents had 20 days from the receipt of the Complaint and Notice of Hearing in which to file an answer and that failure to file an answer would constitute an admission of the material allegations in the Complaint and a

waiver of Respondents' right to an oral hearing. Respondent was served on January 17, 2012 but failed to answer the complaint.

On February 7, 2012, Respondent was advised by the Hearing Clerk that an Answer had not been filed within the time allotted under the Rules of Practice and that he would be advised of subsequent proceedings. On February 9, 2012, a Show Cause Order was entered directing the parties to show cause why a Default Decision and Order should not be entered. Respondent responded indicating that he had been attempting to come to some sort of resolution of the matter. The Complainant has moved that a Default Decision and Order be entered.

Having reviewed the record, the following Findings of Fact, Conclusions of Law and Order will be entered pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Gary Craig (Respondent), doing business as Craig Sheep Farm and Triple C Sheep Farm, is an individual whose business mailing address is in the State of Illinois.
2. Respondent is, and at all times material herein was:
 - (a) Engaged in the business of buying and selling livestock in commerce as a dealer for his own account or for the account of others;
 - (b) Engaged in the business of a market agency buying livestock in commerce on a commission basis; and

(c) Not registered as a dealer or market agency with the Secretary of Agriculture.

3. On September 18, 2007, Respondent received written notification from the Packers and Stockyards Program that he was operating subject to the PSA and that he was required to register and to obtain a bond or bond equivalent as required by the PSA and regulations. Notwithstanding such notice, Respondent continued to engage in the business of a dealer buying and selling livestock in commerce, and the business of a market agency buying livestock on a commission basis, without maintaining an adequate bond or bond equivalent as required by the PSA and the Secretary's regulations.

4. On or about the dates and in the transactions set forth below, Respondent purchased livestock on a commission basis and failed to provide his customer, on whose behalf Respondent was procuring the livestock, with a true or accurate written account of the purchases. Specifically, in each transaction set forth below, Respondent manipulated the price of livestock that he purchased for a customer by creating false auction market invoices.

Date Purchased	Date Invoiced to Principal	Total Head	Total Traceable Head¹	Price Increase Over Actual Purchase Price for Traceable	Amount of Buyer Commission Charged
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¹ "Traceable head" are animals that could be traced back to the initial, actual purchase by Respondent through tags or other identification. In the case of traceable head, the actual purchase prices paid by Respondent could be compared to the invoice prices that were generated by Respondent for a customer.

				Head	
09/22/2008	09/23/2008	43	43	\$261.54	\$43.00
09/29/2008	09/29/2008	37	16	\$86.00	\$50.00
10/06/2008	10/07/2008	22	13	\$40.00	\$55.00
10/13/2008	10/13/2008	47	46	\$182.20	\$100.00
10/20/2008	10/21/2008	63	63	\$182.75	\$125.00
10/27/2008	10/28/2008	48	39	\$286.23	\$100.00
11/01/2008 & 11/03/2008	11/03/2008	112	96	\$384.80	\$225.00
11/17/2008 & 11/24/2008	11/24/2008	80	34	\$159.50	\$125.00
12/01/2008	12/02/2008	35	15	\$53.00	\$50.00
Totals:		487	365	\$1,636.02	\$873.00

5. In each of the transactions set forth in paragraph 4 above, the principal, on whose behalf Respondent was procuring the livestock on a commission basis, was unaware of the fact that the auction market invoices that had been provided by Respondent, purportedly to show the price at which the animals had been purchased, were false or that the actual purchase price of the animals had been inflated by Respondent.

6. In addition to manipulating prices through false invoices, Respondent also purchased livestock on a commission basis without disclosing that the livestock had been purchased at auction from his own consignments.

7. Respondent was fined twice by the State of Illinois, Department of Agriculture, Bureau of Animal Health, for operating as an unlicensed and unbonded livestock dealer. *See State of Illinois v. Gary Craig*, Docket No. AH-08-04, slip op. (August 29, 2008) (Administrative Hearing Agreement); *State of Illinois v. Gary Craig*, Docket No. AH-07-01, slip op. (March 1, 2007) (same). The State of Illinois' bonding requirements for

livestock dealers are satisfied by the bond that is required by the Secretary under the PSA. *See* 22 ILSC 645/16.

8. The fines that were imposed against Respondent by the State of Illinois, which amounted to less than \$1,000, failed to deter him from operating in violation applicable regulatory requirements.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. At all times relevant to the allegations in the complaint, Respondent was operating as a market agency buying livestock on commission subject to the provisions of the PSA.
3. Respondent willfully violated section 312(a) of the PSA (7 U.S.C. § 213(a)) and sections 201.29 and 201.30 of the regulations (9 C.F.R. §§ 201.29, 201.30) by engaging in operations subject to the PSA without maintaining an adequate bond or bond equivalent.
4. Respondent also willfully violated section 312(a) the PSA (7 U.S.C. § 213(a)) and section 201.44 of the regulations (9 C.F.R. § 201.44) by generating false invoices and by purchasing livestock from his own consignments while buying on commission.

Order

1. Respondent Gary Craig, doing business as Craig Sheep Farm and Triple C Sheep Farm, 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:

a. Engaging in business in any capacity for which bonding is required without filing and maintaining an adequate bond or its equivalent as required by the PSA and the regulations;

b. Manipulating the price of livestock by creating false auction market invoices for customers; and

c. Consigning and repurchasing livestock from his own consignment without disclosing to customers that the livestock were purchased from his own consignment.

2. Respondent is prohibited from engaging in business in any capacity for which bonding is required under the Packers and Stockyards Act without first becoming properly registered.

3. In accordance with section 312(b) of the PSA (7 U.S.C. § 213(b)), Respondent is assessed a civil penalty in the amount of five thousand dollars (\$5,000).

4. This Decision and Order shall become final and effective without further proceedings thirty-five (35) days after service on Respondent, unless 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 and Order shall be served upon the parties by the Hearing Clerk.

March 9, 2012

Peter M. Davenport
Chief Administrative Law Judge