

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 13-0332

In re: Victor Leone,

Respondent

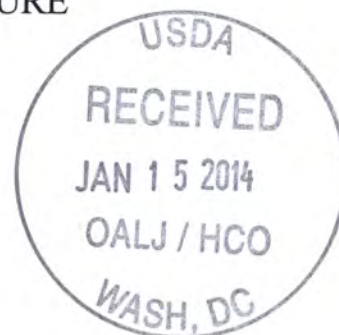
**Default Decision and Order**

**Preliminary Statement**

This disciplinary proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (the "Act", 7 U.S.C. § 181 *et seq.*), by a Complaint filed on August 27, 2013 by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that Respondent willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 *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) (Rules of Practice) was mailed to Respondent by certified mail but was returned to the Hearing Clerk Office as "Unclaimed" and was re-mailed on October 23, 2013. Respondent was informed in the Complaint and the accompanying 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 and a waiver of hearing.

As Respondent failed to file an Answer clearly denying the allegations contained in the Complaint as required by 7 C.F.R. § 1.136(b), the following Findings of Fact, Conclusions of



Law and order will be entered pursuant to section 1.139 of the rules of practice applicable to this proceeding (7 C.F.R. § 1.139).

### **Findings of Fact**

1. Respondent, Victor Leone, is an individual doing business in the state of New York.
2. Respondent at all times material herein was:
  - (a). Engaged in the business of a dealer buying and selling livestock in commerce for his own account; and
  - (b). Required to be registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce and operate with the required bond; and
  - (c). Operating as a dealer without being registered and without the required bond.
3. Respondent was served a Notice of Default Registration/Bonding by certified mail, on February 16, 2011, stating that it was necessary to be registered and obtain a bond or bond equivalent, the bond being no less than \$10,000.00, to secure the performance of his livestock operations under the Act before engaging in business after January 24, 2011.
4. Further, Respondent was notified that, if he continued his livestock operations under the Act after that date without providing adequate bond coverage or its equivalent, he would be in violation of 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.).
5. Notwithstanding such notice, Respondent continued to engage in business as a dealer without being registered as a dealer and without maintaining an adequate bond or its equivalent as required by the Act and the regulations.
6. Respondent engaged in sales transactions as a dealer with Empire Livestock Marketing, LLC Vernon, New York on September 8<sup>th</sup>, September 12<sup>th</sup>, September 29<sup>th</sup>, October 3<sup>rd</sup>, October

13<sup>th</sup>, October 20<sup>th</sup>, November 28<sup>th</sup>, December 1, 2011 and on March 26, 2012, April 9, 2012, May 24<sup>th</sup> and October 15<sup>th</sup>, 2012.

6. On or about September 8, 2011 and other dates, Respondent failed to maintain proper records while acting as a dealer, in that he failed to create and maintain purchase invoices or cash receipts showing the purchase or cash payments for livestock, with a buyer's card being the only record.

### **Conclusions of Law**

1. The Secretary has jurisdiction in this matter
2. Respondent 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) and Section 4 of the Act (7 U.S.C. § 221).

### **Order**

1. The Respondent, his agents and employees, directly or through any corporate or other device, in connection with activities subject to the Act, shall cease and desist from engaging in operations subject to the Act without maintaining an adequate bond or bond equivalent as required by section 312(a) of the Act (7 U.S.C. § 213) and sections 201.29 and 201.30 of the regulations (9 C.F.R. §§ 201.29 and 201.30);
2. Respondent shall not engage in business in any capacity for which bonding is required under the Act and the regulations promulgated thereunder without first becoming properly registered as required by section 201.10(a) of the regulations (9 C.F.R. § 201.10(a)).
3. Respondent shall maintain records to document all purchase and sales transactions conducted as a livestock dealer, in accordance with Section 401 of the Act (7 U.S.C. § 221).

4. Respondent is assessed a civil penalty of one thousand dollars (\$ 1,000.00). Respondent shall send a certified check or money order for one thousand dollars (\$ 1,000.00) made out to "Treasurer of the United States", to the United States Department of Agriculture, Office of the General Counsel, 14<sup>th</sup> and Independence Ave., S.W., ATTN: Tracey Manoff, Room 2324, South Building, Washington, D.C. 20250-1400. The check or money order should be mailed by Federal Express, United Postal Service or any other service where delivery of mail is acknowledged.

5. This Decision and Order shall become final without further proceedings 35 days after service as provided in section 1.142 and 1.145 of the Rules of Practice, 7 C.F.R. §§ 1.142 and 1.145 unless appealed by a party hereto to the Judicial Officer. The provisions of this order shall become effective on the sixth day after service of this Decision and Order on Respondent.

Copies of this Decision and Order shall be served upon the parties.

January 15, 2014

*Peter M. Davenport*

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**Peter M. Davenport**  
Chief Administrative Law Judge