UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 14-0087

In re: Jacob Thompson,
d/b/a Jacob Thompson Cattle Co.,

Respondent

Default Decision and Order

Preliminary Statement

This disciplinary proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*) ["Act"], and the regulations promulgated thereunder (9 C.F.R. § 201 *et seq.*) ["Regulations"], by a Complaint filed on April 1, 2014 by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration ["GIPSA"], United States Department of Agriculture ["Complainant"]. The Complaint alleges that Jacob Thompson, doing business as Jacob Thompson Cattle Co. [hereinafter "Respondent"], willfully violated the Act and Regulations by failing to pay, when due, the full purchase price of livestock.

On April 1, 2014, a copy of the Complaint and 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"] were sent to Respondent's business address via certified mail; however, the Complaint was returned as "unclaimed" to the Hearing Clerk's Office, Office of Administrative Law Judges, Department of Agriculture ["Hearing Clerk's Office"]. On May 8, 2014, the Complaint was re-mailed to Respondent via regular mail pursuant to Section 1.147(c)(1) of the Rules of Practice. Per Rule 1.136, Respondent was required to file an answer

on or before May 28, 2014.

On May 2, 2014, I held a telephone conference on this matter. On the same date I entered an Order consolidating the present action with a second action that Complainant had previously initiated against Respondent (Docket No. 12-0524). In the Order, I also directed the parties to exchange and file with the Hearing Clerk copies of proposed exhibits, list of exhibits, and list of witnesses.

Complainant timely filed its Notice of Exhibit Exchange on May 29, 2014. Respondent, contrarily, did not file or exchange its exhibit lists as directed. Also on May 29, 2014, the Hearing Clerk notified Respondent via regular mail that no answer had been filed in this matter. On June 25, 2014, Complainant filed with the Hearing Clerk a "Motion for Decision by [sic] Without Hearing by Reason of Default."

Because Respondent has failed to file an answer within the 20-day time period prescribed by the Rules of Practice (7 C.F.R. § 1.136), 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. Respondent Jacob Thompson, doing business as Jacob Thompson Cattle Co., is an individual whose last known business address is in Carthage, Texas. The address will not be stated in this Default Decision and Order; however, it was previously provided to the Hearing Clerk's Office.

2. At all times material herein, Respondent was engaged in the business of buying and selling livestock in commerce for his own account or the account of others and buying livestock in commerce on a commission basis.

3. On May 17, 2012, Respondent's registration expired due to his failure to file an annual report pursuant to Section 201.10 of the Regulations (7 C.F.R. § 1.139).

4. During the period of July 8, 2013 through September 10, 2013, Respondent purchased $781,133.24 of livestock in four (4) transactions with Sulphur Springs Livestock Commission Co., Sulphur Springs, TX ["Sulphur Springs"] and in one (1) transaction with Red River Livestock, LLC, Coushatta, LA ["Red River Livestock"], in which Respondent failed to pay, when due, the full purchase price of livestock. In two (2) of these transactions, Respondent issued checks to Sulphur Springs in purported payment for livestock, and those checks were returned unpaid by the bank upon which they were drawn because (b) (4) (b) (4) (b) (4). As of March 21, 2014, Respondent had failed to make full payment of approximately $500,000.00 for livestock to Sulphur Springs.

5. From June 12, 2013 through August 28, 2013, Respondent purchased in five (5) transactions from Red River Livestock $1,027,865.12 worth of livestock for which Respondent issued checks in purported payment for his purchases that were returned unpaid by the bank upon which they were drawn. The checks were returned (b) (4) (b) (4) (b) (4) Respondent failed to pay, when due, the full purchase price of the livestock in these transactions by making wire payments two (2) to three (3) days after payment was due pursuant to the credit agreement between Red River Livestock and Respondent.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.

2. Respondent has willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a), 228b) and Section 201.43 of the Regulations.

Order

1. Respondent shall cease and desist from:

   a. Issuing checks in purported payment of livestock purchases without having and maintaining sufficient funds on deposit and available in the account upon which such checks are drawn to pay when presented; and

   b. Failing to pay, when due, the full purchase price for livestock.

2. Respondent is prohibited from registering to engage in business subject to the Act for a period of five (5) years, to commence on the effective date of this Order. After the expiration of this five (5) year time period, Respondent may submit an application for registration to the Packers and Stockyards Program along with the required bond or bond equivalent. Pursuant to Section 303 of the Act (7 U.S.C. § 203), Respondent is prohibited from engaging in business subject to the Act in any capacity for which registration is required under the Act without being registered with the Packers and Stockyards Program.

3. This Decision and Order shall become final and effective without further proceedings thirty-five (35) days after service upon Respondent, unless appealed to the Judicial Officer by a party to the proceeding within thirty (30) days after service as provided in Sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139, 1.145).

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

August 22, 2014

Peter M. Davenport

Peter M. Davenport
Chief Administrative Law Judge