

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:) P. & S. Docket No. D-01-0013
)
Wayne W. Coblenz d/b/a)
Coblenz & Sons Livestock,)
)
Respondent) Decision Without Hearing
By Reason of Default

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This proceeding under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.), hereinafter the "Act," was instituted by a complaint filed on September 26, 2001, by the Deputy Administrator, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture alleging that the Respondent willfully violated the Act.

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), hereinafter the "Rules of Practice," were served on the Respondent by certified mail on October 2, 2001. The complaint was accompanied by a service letter from the Hearing Clerk informing the Respondent that an answer must be filed within twenty days of service and that failure to file an answer would constitute an admission of all of the material allegations of fact in the complaint and waive Respondent's right to an oral hearing.

Respondent has failed to file an answer within the time period prescribed by section 1.136 of the Rules of Practice (7 C.F.R. § 1.136). Respondent's failure to file an answer constitutes an admission of all of the material allegations of fact in the complaint. Based on these admissions, Complainant's motion for the issuance of a default decision, made pursuant to section 1.139 of

the Rules of Practice (7 C.F.R. § 1.139), is hereby granted and this Decision and Order are entered without hearing or further procedure.

Findings of Fact

1. Wayne W. Coblentz, doing business as Coblentz & Sons Livestock, referred to herein as the "Respondent," is an individual whose business mailing address is P.O. Box 650, Sugarcreek, Ohio 44681.
2. Respondent Coblentz 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) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce and as a market agency to buy livestock on a commission basis.
3. Respondent Coblentz, in connection with his operations subject to the Act, on or about the dates and in the transactions set forth in paragraph II of the complaint, issued checks in payment for livestock purchases which checks were returned unpaid by the bank upon which they were drawn because Respondent did not have and maintain sufficient funds on deposit and available in the accounts upon which such checks were drawn to pay such checks when presented.
4. (a) Respondent Coblentz, in connection with his operations subject to the Act, on or about the dates and in the transactions set forth in paragraph III of the complaint, purchased livestock and failed to pay, when due, the full purchase price of such livestock.
 - (b) At the time the complaint was issued, on September 26, 2001, \$281,970.90 of the \$477,591.30 referred to in paragraph III of the complaint remained unpaid.

Conclusions

By reason of the facts found herein, Respondent Coblentz has willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a) and 228b).

Order

Respondent Wayne W. Coblentz, 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 pay, when due, the full purchase price of livestock; and
3. Failing to pay the full purchase price of livestock.

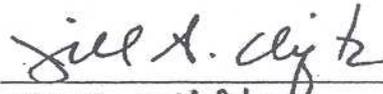
Respondent Wayne W. Coblentz is hereby suspended as a registrant under the Act for a period of five years. *Provided, however*, that upon application to Packers and Stockyards Programs a supplemental order may be issued terminating the suspension of the Respondent at any time after 150 days upon demonstration by Respondent that the livestock sellers identified by the complaint in this proceeding have been paid in full and *provided further*, that 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 and upon demonstration of circumstances warranting modification of the Order, such as a reasonable and current schedule of restitution.

Pursuant to the Rules of Practice governing procedures under the Act, this Order shall become final without further proceedings thirty-five (35) days after service hereof, unless appealed to the Secretary 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 and 1.145).

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

Issued in Washington D.C.

this 12 day of April, 2002



Jill S. Clifton
Administrative Law Judge