

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

P & S Docket No. D-10-0029

In re: E.M.M. PIG PLACEMENT CO., LLC,

Respondent

DEFAULT DECISION AND ORDER

Preliminary Statement

This is a disciplinary proceeding under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.), herein referred to as the “Act,” instituted by a Complaint filed on November 5, 2009 by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that E.M.M. Pig Placement Co., LLC, hereinafter referred to as “Respondent,” willfully violated the Act.

Service of 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”), upon Respondent was attempted by certified mail on November 12, 2009. The Complaint was returned as “unclaimed” by the U.S. Postal Service to the Hearing Clerk’s office. The Hearing Clerk re-mailed the Complaint and served the Respondent by regular mail on December 8, 2009, pursuant to section 1.147 of the Rules of Practice. Respondent was informed in the 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.

Because Respondent has failed to file an answer within the time period prescribed by the Rules of Practice (7 C.F.R. § 1.136), the material facts alleged in the Complaint are deemed admitted and the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. E.M.M. Pig Placement Co., LLC is a limited liability company organized and existing under the laws of the State of Iowa, whose business mailing address is 4640 48th Avenue, Baldwin, Iowa 52207. Respondent ceased business operations on August 4, 2008.
2. At all times material herein, Respondent was:
 - a. Engaged in the business of buying and selling livestock in commerce for its own account as a dealer; and
 - b. Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for its own account.
3. On or about the dates and in the transactions listed below, Respondent failed to pay, within the time period required by the Act, the full purchase price of such livestock:

Seller	Purchase Date	No. Head	Livestock Amount	Due Date Per \$409	Amount Paid	Amount Unpaid
Sand Ridge Pork, LLC	5/5/2008	802	\$12,030.00	5/6/2008	\$7,406.51	\$4,623.49
Sand Ridge Pork, LLC	5/2/2008	806	\$12,090.00	5/5/2008	\$7,443.49	\$4,646.51
L.L. Parks Livestock, Inc.	5/16/2008	1,650	\$24,750.00	5/19/2008	\$12,209.18	\$12,540.82
L.L. Parks Livestock, Inc.	5/20/2008	1,650	\$24,750.00	5/21/2008	\$12,209.18	\$12,540.82

L.L. Parks Livestock, Inc.	5/27/2008	1,450	\$21,750.00	5/28/2008	\$10,731.65	\$11,018.35
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4. As of the date of issuance of the complaint, Respondent still owed \$9,270 to Sand Ridge Pork, LLC of Creston, Illinois and \$36,100 to L.L. Parks Livestock, Inc. of Danville, Illinois.

5. On or about the dates and in the transactions listed below, Respondent failed to pay when due the full purchase price of such livestock:

Seller	Purchase Date	No. Head	Livestock Amount	Payment Amount*	Due Date Per §409	Date Paid	Days Late
Sand Ridge Pork, LLC	5/5/2008	802	\$12,030.00	\$7,406.51	5/6/2008	1/27/2009	266
Sand Ridge Pork, LLC	5/2/2008	806	\$12,090.00	\$7,443.49	5/5/2008	1/27/2009	267
L.L. Parks Livestock, Inc.	5/16/2008	1,650	\$24,750.00	\$12,209.18	5/19/2008	1/27/2009	253
L.L. Parks Livestock, Inc.	5/20/2008	1,650	\$24,750.00	\$12,209.18	5/21/2008	1/27/2009	251
L.L. Parks Livestock, Inc.	5/27/2008	1,450	\$21,750.00	\$10,731.65	5/28/2008	1/27/2009	244
*Total Payments to Sand Ridge Pork, LLC and L.L. Parks Livestock, Inc. amount to \$50,000.00; this payment was made from Respondent's \$50,000 bond.							

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. By reason of the facts alleged in paragraphs 1 through 5, Respondent has willfully violated sections 312(a) and 409(a) of the Act (7 U.S.C. §§ 213(a) and 228b(a)).

Order

1. Respondent E.M.M. Pig Placement Co., LLC, its agents and employees, directly or through any corporate or other device, in connection with their activities subject to the Packers

and Stockyards Act, shall cease and desist from:

- a. Failing to pay, when due, the full purchase price of livestock; and
 - b. Failing to pay the full purchase price of livestock.
2. The Respondent is hereby suspended as a registrant under the Act for a period of five (5) years; provided, however, that upon application to Packers and Stockyards Program, a supplemental order may be issued terminating the suspension of the Respondent at any time after one (1) year upon demonstration of circumstances warranting modification of the Order. Those circumstances may include that the Respondent has paid Sand Ridge Pork, LLC \$9,270.00 and L.L. Parks Livestock, Inc. \$36,100.00 for livestock purchases.
3. This Decision shall become final and effective without further proceedings 35 days after the date of service upon Respondent, unless it is appealed to the Judicial Officer by a party to the proceeding within 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.

Done at Washington, D.C.
July 7, 2010

PETER M. DAVENPORT
Chief Administrative Law Judge

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