

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0204

In re: Richard Hale,

Respondent

Default Decision and Order

Preliminary Statement

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 *et seq.*) (Act), by a Complaint filed on January 25, 2012, by the Administrator, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that the Respondent willfully violated the Act by failing to pay, when due, for livestock in violation of sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a), 228b).. 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 *et seq.*) (Rules of Practice) were mailed to the Respondent via certified mail on January 26, 2012. According to the delivery receipt, Respondent received the Complaint on February 6, 2012.

On March 7, 2012, well beyond the 20 day time period for filing an Answer as required by the Rules of Practice (7 C.F.R. § 1.136), Respondent filed a letter in answer to the Complaint. In the letter, he failed to deny all the material allegations of the Complaint, noting, for example: “As far as Producers Livestock in Jerome Idaho, I have been buying cattle there weekly for 35 years. I think they have had plenty of time to say they are not happy with the way Things [sic] are.”

As Respondent failed to timely file an Answer within the time period required by the Rules of Practice (7 C.F.R. § 1.136), the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. Richard Hale (Respondent), is an individual whose mailing address is in Twin Falls, Idaho.
2. At all times material to this Decision, Respondent was:
 - (a) A dealer, engaged in the business of buying and selling in commerce livestock, either on his own account or as the agent of the vendor or purchaser; and
 - (b) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for his own account and for the account of others.
3. On May 20, 2010, I entered a Decision Without Hearing by Reason of Consent in the case *In re: Richard Hale*, P&S Docket No. D-10-0001, that ordered Respondent to cease and desist from failing to pay, when due, the full purchase price of livestock as required by section 409 of the Act (7 U.S.C. § 228b).
4. The provisions of the cease and desist order are still in effect.
5. From the period of June 9, 2010 through November 4, 2010, Respondent purchased livestock in approximately 55 transactions from Burley Livestock Auction, LLC, of Burly ID and from Producers Livestock Marketing Association of Jerome ID, and made payment between 5 and 21 days beyond the date payment was due.

Conclusions of Law

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

Order

1. Respondent Richard Hale, directly or through any corporate or other device, in connection with his activities subject to the Act, shall cease and desist from failing to pay, when due, for livestock purchases.
2. In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), Respondent is a civil penalty in the amount of twenty thousand dollars (\$20,000).
3. Copies of this Decision and Order shall be served upon the parties. This Decision and Order shall become final and effective without further proceedings thirty-five (35) days after service on Respondents, 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.

March 27, 2012

Peter M. Davenport
Chief Administrative Law Judge