

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0441

In re: John E. Lundgren,

Respondent

Default Decision and Order

Preliminary Statement

This is a disciplinary proceeding brought 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 March 27, 2012 by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that John E. Lundgren, herein referred to as Respondent, willfully violated the Act.

The Complaint and a copy of the Rules of Practice were served upon Respondent on May 22, 2012 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.

Respondent failed to file an Answer within the time period prescribed by the Rules of Practice (7 C.F.R. § 1.136), and 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. John E. Lundgren is an individual residing in Mount Vernon, Washington.
2. Respondent, at all times material herein, was:
 - (1) Engaged in business as a dealer, buying and selling livestock in commerce for his own account; and
 - (2) Not registered as a dealer, as required, with the Secretary of Agriculture to buy and sell livestock in commerce for his own account.
3. On July 21, 2010, in the matter of *In re: John Lundgren*, Docket No. 10-0151, Administrative Law Judge Jill S. Clifton issued a Default Decision and Order (which became final on August 31, 2010) against Respondent Lundgren including an order that the Respondent cease and desist from failing to pay, when due, for livestock purchases. Notwithstanding this Default Decision and Order, Respondent continued to fail to pay, when due, for livestock purchases as set forth in Appendix A attached to the Complaint filed in this action.
4. On or about the dates and in the transactions set forth in Appendix B attached to the Complaint filed in this action, Respondent engaged in the business of a dealer without maintaining an adequate bond or bond equivalent.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. Respondent willfully violated 7 U.S.C. § 204 and section 201.29 of the regulations (9 C.F.R. § 201.29).
3. Respondent willfully violated sections 312(a) and 409 of the Act (7 U.S.C. § 213(a) and § 228b).

Order

1. 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:
 - a) engaging in operations subject to the Act without maintaining an adequate bond or bond equivalent as required by 7 U.S.C. § 204 and section 201.29 of the regulations (9 C.F.R. § 201.29); and
 - b) failing to pay, when due, for livestock purchases in contravention of sections 312(a) and 409 of the Act (7 U.S.C. § 213(a) and § 228b)
2. Respondent is assessed a civil penalty of \$18,967.97.
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 thirty (30) days pursuant to section 1.145 of the Rules of Practice (7 C.F.R § 1.145).

Copies of this Decision shall be served upon the parties.

October 25, 2012

Peter M. Davenport
Chief Administrative Law Judge