

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0321

In re: Brian Adams,

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.*), 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 Brian Adams (Respondent) willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 *et seq.*).

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) (Rules of Practice), were served upon the respondent by certified mail on May 25, 2012. 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. Brian Adams is an individual with a mailing address in Colorado.
2. Respondent was at all times material herein engaged in the business of a market agency buying livestock in commerce on a commission basis, but was not registered with the Secretary of Agriculture as such.
3. In September, 2010, Respondent was notified by the Grain Inspection, Packers and Stockyards Administration (“GIPSA”), by certified mail, that GIPSA had information indicating that the respondent was engaging in the business of buying and selling livestock in commerce without properly registering and filing a bond or bond equivalent as required by the Act and regulations. The letter referenced the Packers and Stockyards Act (7 U.S.C. §§ 181-229) and the regulations promulgated thereunder (9 C.F.R. §§ 201.1-201.200), and notified the respondent of his obligation to apply for registration and secure a bond or bond equivalent. The letter also stated that failure to comply with the registration and bonding requirements would result in appropriate corrective action.
4. Notwithstanding such notice, Respondent continued to engage in the business of buying livestock in commerce on a commission basis without being registered as a market agency with the Secretary and without maintaining an adequate bond or bond equivalent as required by the Act and the regulations. From October 22, 2009 through November 19, 2009, and from October 19, 2010 through December 9, 2010, in approximately twenty transactions at the Willcox Livestock Auction, Inc. in Willcox, AZ, Prescott Livestock Auction in Chino Valley, AZ, Pacific Livestock Auction, LLC in Chandler, AZ, and Marana Stockyards and Livestock Market, Inc. in Marana, AZ, involving a total of 5,062 head with a total purchase price of approximately

\$2,860,676.31, Respondent engaged in the business of a market agency buying livestock in commerce on a commission basis without maintaining an adequate bond or bond equivalent.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. Respondent willfully violated section 312(a) of the Act (7 U.S.C. § 213(a)), and sections 201.29 and 201.30 of the Regulations (9 C.F.R. §§ 201.29, 201.30).

Order

1. Respondent Brian Adams, his agents and employees, directly or indirectly through any corporate or other device, in connection with his operations subject to the Packers and Stockyards Act, shall cease and desist from engaging in business in any capacity for which registration and bonding are required under the Packers and Stockyards Act and the regulations promulgated thereunder without filing and maintaining an adequate bond or its equivalent, as required by the Act and the regulations, and without first becoming properly registered under the Act.

2. Respondent is hereby assessed a civil penalty in the amount of eight thousand five hundred dollars (\$8,500). Respondent shall send a certified check or money order in the amount of eight thousand and five hundred dollars (\$8,500), payable to the Treasurer of the United States, to:

USDA – GIPSA
U.S. Bank
P.O. Box 790335
St. Louis, MO 63179-0335

The certified check or money order shall include the docket number of this proceeding.

3. Respondent is prohibited from registering to engage in business subject to the Act for a period of 30 days from the date of issuance of this Order. After expiration of this 30 day time period provided the civil penalty assessed herein has been paid in full, Respondent may submit an application for registration to the Packers and Stockyards Program along with the required bond or bond equivalent.

4. 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.

December 17, 2012

Peter M. Davenport
Chief Administrative Law Judge