

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
)
Amy Knight, d/b/a Urban Stockyards) P&S-D Docket No. 20-J-0139
)
Respondent.)

DECISION AND ORDER WITHOUT HEARING BY REASON OF DEFAULT

Appearance:

Matthew T. Schmit, Esq., with the Office of the General Counsel, United States Department of Agriculture, Kansas City, MO, for the Complainant, the Deputy Administrator, Fair Trade Practices Program, Agricultural Marketing Service (“AMS”).

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.*) (“P&S Act”) and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. §§ 201.1, *et seq.*) (“Regulations”); and the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130 through 1.151) (“Rules of Practice”).

The Complainant, Deputy Administrator, Fair Trade Practices Program, PACA Division, Agricultural Marketing Service, United States Department of Agriculture, initiated this proceeding against Respondent Amy Knight, doing business as Urban Stockyards, by filing a complaint on July 9, 2020. The Complaint alleged that Respondent willfully violated sections 307 and 312(a) of the P&S Act (7 U.S.C. §§ 208 and 213(a)) and section 201.42 of the Regulations (9 C.F.R. § 201.42) when, during the period from May 1, 2017, through June 30, 2017, Respondent failed to properly use and maintain her custodial account, thereby endangering

the faithful and prompt accounting of shippers' proceeds and the payments due to the owners or cosignors of livestock. In addition, the Complaint alleged that the shortages in Respondent's custodial account during the period from May 1, 2017 through June 30, 2017, also were due in part to Respondent's misuse of custodial account funds.¹ Specifically, from March 1, 2017 through June 30, 2017, Respondent permitted \$9,174.29 in bank fees to be charged to her custodial account. Complainant requested that such order or orders be issued as are authorized by the P&S Act and warranted under the circumstances, including an order: (a) requiring Respondent to cease and desist from violating the P&S Act and the Regulations promulgated thereunder; (b) assessing civil penalties against Respondent in accordance with the P&S Act, and; (c) granting other relief as may be appropriate and warranted under the P&S Act and in the circumstances of the case.

Respondent was duly served with a copy of the Complaint and did not file an answer within the twenty-day period prescribed by section 1.136 of the Rules of Practice (7 C.F.R. § 1.136).²

On September 8, 2020, Complainant filed a Motion for Decision Without Hearing by Reason of Default ("Motion for Default") and proposed Decision Without Hearing by Reason of

¹ See Appendix A to the Complaint.

² United States Postal Service records reflect that the Complaint was sent to Respondent via certified mail and delivered on July 23, 2020. Respondent had twenty (20) days from the date of service to file a response. 7 C.F.R. § 1.136(a). Weekends and federal holidays shall be included in the count; however, if the due date falls on a Saturday, Sunday, or federal holiday, the last day for timely filing shall be the following work day. 7 C.F.R. § 1.147(h). In this case, Respondent's answer was due on or before August 12, 2020. Respondent has not filed an answer in this matter.

Default (“Proposed Decision”). Respondent has not filed any objections to Complainant’s Motion for Default or Proposed Decision.³

Failure to file a timely answer or failure to deny or otherwise respond to allegations in the Complaint shall be deemed, for purposes of this proceeding, an admission of the allegations in the Complaint, unless the parties have agreed to a consent decision. 7 C.F.R. § 1.136(c). Other than a consent decision, the Rules of Practice do not provide for exceptions to the regulatory consequences of an untimely filed answer where, as in the present case, no meritorious objections have been filed.⁴

As Respondent failed to answer the Complaint, and upon Complainant’s motion for the issuance of a decision without hearing by reason of default, this Decision and Order is issued without further procedure or hearing pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent Amy Knight is an individual doing business as Urbana Stockyards and her current address is in the State of Missouri.⁵
2. Respondent, at all times material herein, was:

³ United States Postal Service records reflect that the Motion for Default and Proposed Decision were sent to Respondent via certified mail and delivered on September 18, 2020. Respondent had twenty (20) days from the date of service to file objections thereto. 7 C.F.R. § 1.139. Weekends and federal holidays shall not be included in the count; however, if the due date falls on a Saturday, Sunday, or federal holiday, the last day for timely filing shall be the following work day. 7 C.F.R. § 1.147(h). In this case, Respondent’s objections were due by October 8, 2020. Respondent has not filed any objections.

⁴ 7 C.F.R. § 1.139; *see supra* note 3.

⁵ Respondent’s address was previously provided to the Hearing Clerk, United States Department of Agriculture, for the purpose of service of the Complaint. It will not be stated here to protect Respondent’s privacy.

- a. Engaged in the business of conducting and operating a posted stockyard subject to the provisions of the P&S Act;
 - b. Engaged in the business of a market agency selling consigned livestock in commerce on a commission basis at the stockyard; and
 - c. Registered with the Secretary of Agriculture as a market agency selling livestock in commerce on a commission basis.
3. The Secretary has jurisdiction over Respondent and the subject matter involved herein.
4. On February 21, 2012, the Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration⁶, notified Respondent, via e-certified mail, that failing to properly use and maintain Respondent's Custodial Account violated section 312(a) of the P&S Act (7 U.S.C. § 213(a)) and section 201.42 of the Regulations (9 C.F.R. § 201.42). Notwithstanding this notice, Respondent continued to misuse Custodial Account funds and operate with a Custodial Account shortage.
5. During the period from May 1, 2017 through June 30, 2017, Respondent failed to properly use and maintain her Custodial Account, thereby endangering the faithful and prompt accounting of shippers' proceeds and the payments due to the owners or consignors of livestock.
 - a. As of May 31, 2017, Respondent had outstanding checks drawn on her Custodial Account in the amount of \$62,879.70 and had to offset such checks a negative

⁶ The Secretary of Agriculture (Secretary's Memorandum 1076-018, Nov. 14, 2017) subsequently eliminated the Grain Inspection, Packers and Stockyards Administration as a stand-alone agency (83 Fed. Reg. 61310) transferring enforcement of the Act to the Packers & Stockyards Division, Fair Trade Practices Program, Agricultural Marketing Service.

balance in the Custodial Account of \$52,870.09, resulting in a Custodial Account shortage in the amount of \$115,749.79.

- b. As of June 30, 2017, Respondent had outstanding checks drawn on her Custodial Account in the amount of \$122,055.07 and had to offset such checks a balance in the Custodial Account of \$9,994.00 and proceeds receivable of \$7,722.61, resulting in a Custodial Account shortage in the amount of \$104,338.46.
- c. The shortages in Respondent's Custodial Account were due, in part, to Respondent's failure to deposit into the account an amount equal to the proceeds receivable from the sale of consigned livestock within the time prescribed by section 201.42 of the Regulations (9 C.F.R. § 201.42).
- d. The shortages in Respondent's Custodial Account during the period from May 1, 2017 through June 30, 2017 were also due in part to Respondent's misuse of Custodial Account funds. From March 1, 2017 through June 30, 2017, Respondent permitted \$9,174.29 in bank fees to be charged to her Custodial Account.

Conclusions

1. The Secretary of Agriculture has jurisdiction in this matter.
2. By failing to maintain her Custodial Account and by misusing that Custodial Account, Respondent has willfully violated sections 307 and 312(a) of the P&S Act (7 U.S.C. §§ 208, 213(a)) and section 201.42 of the Regulations (9 C.F.R. § 201.42).
3. Respondent did not file an answer within the time period prescribed by section 1.136 of the Rules of Practice (7 C.F.R. § 1.136), which constitutes an admission of all of the material allegations in the Complaint. Complainant moved for the issuance of a Decision without

Hearing by Reason of Default pursuant to section 1.139 of the rules of Practice (7 C.F.R. § 1.139). Accordingly, this Decision and Order is entered without hearing or further procedure.

ORDER

1. Complainant's Motion for Decision Without Hearing by Reason of Default is GRANTED.
2. Respondent Amy Knight, doing business as Urbana Stockyards, their agents and employees, directly or through any corporate or other device, in connection with operations subject to the Packers and Stockyards Act, shall cease and desist from:
 - a. Failing to maintain her Custodial Account for Shippers' Proceeds; and
 - b. Misusing her Custodial Account for Shippers' Proceeds
3. In accordance with section 312(b) of the P&S Act (7 U.S.C. § 213(b)), Respondent Amy Knight, doing business as Urbana Stockyards, is assessed a civil penalty in the amount of Eight Thousand Dollars (\$8,000.00). Respondent may pay by one of the following methods:
 - a. Respondent may make payment by certified check or money order payable to the Treasurer of the United States (referencing P&S Docket No. D-20-0139) and send to:⁷
 - b. Respondent may use the Pay.gov system to pay the civil penalty electronically and follow the directions attached to this Order.⁸

USDA-AMS-FTPP-PSD
P.O. Box 979064
St. Louis, Missouri 63197-9000

⁷ If this option is selected, Respondent should ensure the method for mailing is trackable and should keep record of this payment should follow up be necessary.

⁸ Please note that the Respondent is to copy PSDWashingtonDC@usda.gov and Candice.c.Harvey@usda.gov on the confirmation of payment email.

This Decision and Order shall be final and effective without further proceedings thirty-five (35) days after service unless an appeal to the Judicial Officer is filed with the Hearing Clerk 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 by the Hearing Clerk upon each of the parties, with courtesy copies provided via email where available.

Done at Washington, D.C.,
this 15th day of October 2020



Channing D. Strother
Chief Administrative Law Judge

Hearing Clerk's Office
United States Department of Agriculture
Stop 9203, South Building, Room 1031
1400 Independence Avenue, SW
Washington, DC 20250-9203
Tel: 1-202-720-4443
Fax: 1-844-325-6940
SM.OHA.HearingClerks@USDA.GOV

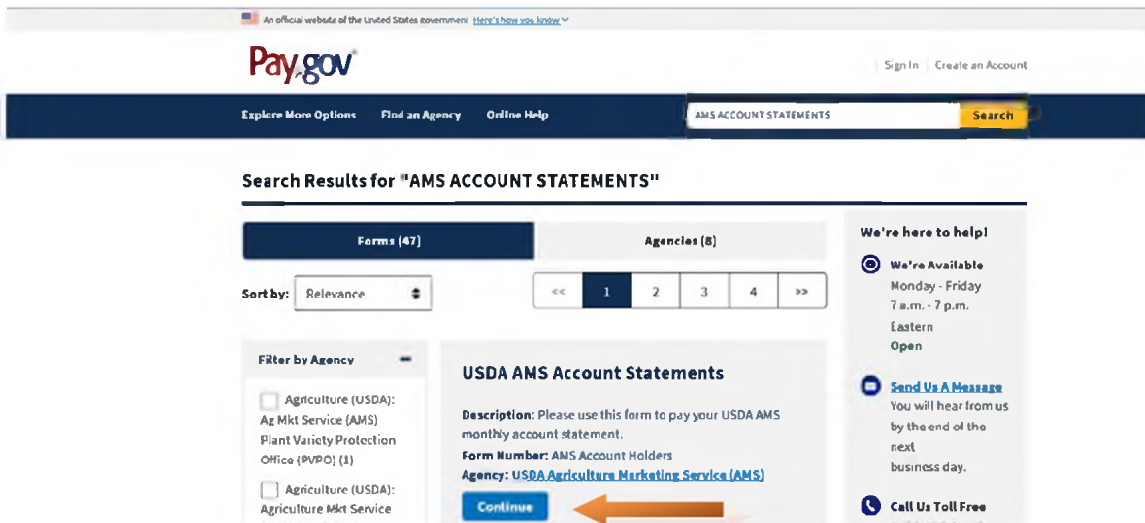
To make an online payment through PAY.GOV payment, complete the following:

(1) Go to <https://www.pay.gov>

(2) Click in the **Search** box and type “AMS Account Statements”.



(3) Click “Continue” USDA, AMS Account Statements.



(4) The screen shows accepted payment methods. Click on “Continue to the Form”.

NOTE: The maximum dollar amount allowed for Credit Card payments is \$24,999.99. The maximum dollar amounts allowed for PayPal and Amazon is \$10,000. There is no limit for Bank Account (ACH).

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USDA AMS Account Statements

1 2 3 4 5
Before You Begin Complete Agency Enter Payment Info Review & Submit Confirmation

Need Help?
Contact: Kandy Nelson
Email: [Click to email](#)
Phone: (612) 336-3427
Website: [Click to visit site](#)

About this form
Please use this form to pay your USDA AMS monthly account statement.

Accepted Payment Methods:

- Bank account (ACH)
- Amazon account
- PayPal account
- Debit or credit card

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This is a secure service provided by United States Department of the Treasury. The information you will enter will remain private. [Please review our privacy policy](#) for more information.

(5) Complete the required information on the top of the form

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Before You Begin Complete Agency Form Enter Payment Info Review & Submit Confirmation

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USDA United States Department of Agriculture
Agricultural Marketing Service

AMS Electronic Payment Form

If you would like to schedule a recurring payment, you must first register as a Pay.gov user. Please return to Pay.gov's home page and click on "Click here to Register" before filling out the form.

**Required Field*

*Company Name: ABC COMPANY

Email Address: _____

*Point of Contact Name: JOHN SMITH

*Phone Number: 123-456-7890 Ext. _____

(6) Under “Account Number”, enter the Case Number or Docket Number and the dollar amount in the “Amount” column

Please note a vendor account number for each individual debt you wish to pay. You may pay up to five different accounts.

Account Number(s):	Amount(s):
CASE #1	\$ 100.00
	\$
	\$
	\$
	\$
Total:	\$ 100.00

[PDF Preview](#) [Continue](#) 

When form is completed, click Continue.

(7) Select type of payment and click “Next”

USDA AMS Account Statements

Progress bar: 1 (checked) - 2 (checked) - 3 (active) - 4 - 5


Before You Begin Complete Agency Form Enter Payment Info Review & Submit Confirmation

Payment Information

Payment Amount \$100.00

*** I want to pay with my**

- Bank account (ACH)
- Amazon account
- PayPal account
- Debit or credit card

[Previous](#) [Return to Form](#) [Cancel](#) [Next](#) 

Enter the required information for credit/debit card, Bank Account, Amazon Account or PayPal Account

- (8) When you reach the confirmation page to click “Submit Payment”. There is an area to enter your e-mail address (personal or business) to request a payment receipt. To obtain a payment receipt, enter your e-mail address in both the first email box and confirm email box. In the “CC” box, you must enter the e-mail address: PSDWashingtonDC@usda.gov and Candice.c.Harvey@usda.gov

* Email Address:

* Confirm Email Address:

CC:

You may enter multiple email addresses in this field. Separate email addresses with a comma.

Once the e-mail addresses are entered, click “Submit Payment”

NOTE: Examples of Payment Receipts

a) ACH Receipt:

Your payment has been submitted to the designated government agency through Pay.gov and the details are below. Please note that this is just a confirmation of transaction submission. To confirm that the payment processed as expected, you may refer to your bank statement on the scheduled payment date. If you have any questions or wish to cancel this payment, you will need to contact the agency you paid at your earliest convenience.

*Application Name: AMS Account Holders
Pay.gov Tracking ID:
Agency Tracking ID:*

*Account Holder Name:
Transaction Type: ACH Debit
Transaction Amount:
Payment Date:*

*Account Type: Personal Checking
Routing Number:
Account Number:*

Transaction Date:
Total Payments Scheduled:
Frequency:

Company Name:
Point of Contact Name:
Point of Contact Phone:
Account Number 1: =
Account Number 2: =
Account Number 3: =
Account Number 4: =
Account Number 5: =

b) Debit/Credit Card Receipt

Your payment has been submitted to Pay.gov and the details are below. If you have any questions regarding this payment, please contact Kandy Nelson at (612) 336-3427 or Kandy.J.Nelson@APHIS.USDA.GOV.

Application Name: AMS Account Holders
Pay.gov Tracking ID:
Agency Tracking ID:
*Transaction Type: **Sale***
Transaction Date:
Account Holder Name:
Transaction Amount:
Card Type:
Card Number:

Company Name:
Point of Contact Name:
Point of Contact Phone:
Account Number 1: =
Account Number 2: =
Account Number 3: =
Account Number 4: =
Account Number 5: =