

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
)
Trampas Jordan,) P&S-D Docket No. 21-J-0018
)
Respondent.)

REC'D - USDA/OALJ/OHC
2021 JUN 16 PM 4:26

DECISION AND ORDER WITHOUT HEARING BY REASON OF DEFAULT

Appearances:

Grace Anne Wilhelm, Esq., with the Office of the General Counsel, United States Department of Agriculture, Temple, TX, for the Complainant, the Deputy Administrator, Fair Trade Practices Program, Agricultural Marketing Service (“AMS”)

Trampas Jordan, pro se Respondent

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.*) (“Act”); the regulations promulgated thereunder (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 Deputy Administrator, Fair Trade Practices Program, Agricultural Marketing Service, United States Department of Agriculture (“Complainant”), initiated this proceeding by filing a complaint against Trampas Jordan (“Respondent”) on March 2, 2021. The Complaint alleges that 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. §§ 202.29 and 201.30).¹ Further, the

¹ Complaint at 2. Specifically, the Complaint alleges that: (1) notwithstanding a November 1, 2019 Notice of Default, Respondent continued to engage in the business of buying livestock in commerce without registering with the Secretary or maintaining an adequate bond or bond equivalent as required by the Act and Regulations and (2) during the period December 7, 2019

Complaint requests:

1. That *unless Respondent fails to file an answer within the time allowed* or files an answer admitting all the material allegations of this complaint, this proceeding be set for an oral hearing in conformity with the Rules of Practice; and
2. That an order be issued requiring Respondent to cease and desist from the violations of the Act and the regulations found to exist; barring Respondent from registering under the Act for a specified period; prohibiting Respondent, for a specified period, from engaging in business in any capacity for which registration and bonding are required under the Act; and assessing such civil penalties against Respondent as are authorized by the Act and warranted by the facts and circumstances of this case.

Complaint at 3 (emphasis added).

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 April 27, 2021, I issued an order directing the parties to show cause (“Show Cause Order”), not later than twenty days after that date, why default should not be entered against Respondent.³

through January 25, 2020, Respondent purchased a total of 292 head of livestock in nineteen transactions involving Tri-County Livestock Market, Inc. in New Summerfield Texas for a total purchase price of \$182,697.78; in each of these transactions, Respondent engaged in the business of a market agency buying livestock on a commission basis without being registered with the Secretary and maintaining an adequate bond or bond equivalent. *Id.*

² United States Postal Service records reflect that the Complaint was sent to Respondent via certified mail and delivered on March 30, 2021. Respondent had twenty 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 April 19, 2021. Respondent has not filed an answer.

³ The Show Cause Order also directed: “Unless the parties have agreed to a consent decision, Complainant’s response shall be accompanied by: (1) a proposed decision and order and (2) a motion for adoption of that proposed decision and order in accordance with the provisions of 7 C.F.R. § 1.139.” Show Cause Order at 2.

On May 3, 2021, Complainant filed a proposed decision without hearing by reason of default (“Proposed Decision”) and motion for adoption thereof (“Motion for Default”).

On May 17, 2021, Respondent filed a letter (“Response”) “responding to the Court’s [‘]Order to Show Cause Why Default Should Not Be Entered’ and addressing the ‘Complaint.’”⁴ The Response included a Proposed Decision Without Hearing by Reason of Default (“Respondent’s Proposed Decision”) and copies of Respondent’s Application for Registration; Bond Required of Livestock Market Agencies, Dealers, and Packers; and certified mail receipt to the USDA’s Packers and Stockyards Western Regional Office.

Respondent has not filed any objections to Complainant’s Motion for Default or Proposed Decision.⁵

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.⁶ Other than a consent decision, the Rules of Practice do not provide for exceptions to the regulatory consequences of an unfiled answer where, as in the present case, no meritorious objections have been filed.⁷

Here, Respondent failed to answer the Complaint and filed no objections to

⁴ Response at 1.

⁵ United States Postal Service records reflect that Complainant’s Motion for Default and Proposed Decision were sent to Respondent via certified mail and delivered on May 19, 2021. Respondent had twenty days from the date of service to file objections thereto. 7 C.F.R. § 1.139. 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 objections were due on or before June 8, 2021. Respondent has not filed any objections.

⁶ 7 C.F.R. § 1.136(c).

⁷ 7 C.F.R. § 1.139; *see supra* note 5 and accompanying text.

Complainant's Motion for Default. Respondent's first and only substantive filing in this case⁸—made on May 17, 2021, twenty-eight days his answer was due⁹—was a response to my Show Cause Order. The Response states, in relevant part:

TO THE HONORABLE JUDGE:

I am the Respondent, Trampas Jordan, responding to the Court's [“]Order to Show Cause Why Default Should Not Be Entered” and addressing the “Complaint.”

I apologize to the Court for not responding. I had taken the complaint to my bonding agent and he sent it back saying that the bond should be ready as soon as I had the money. I had to wait to get the money together to pay the bond. I am now bonded and should be registered. . . . I thought that getting the registration and bond took care of this. I now know better. . . .

I know that I should not have continued to buy cattle, but I was just trying to support my family. [REDACTED]. I'm just a hard-working cowboy trying to make ends meet. . . .

It was not my intention to not get registered and bonded, I just need to support myself and my children.

Response at 1-2 (emphasis added). The Proposed Decision attached to the Response also provides: “Respondent did not have the funds to get an attorney and did not have the knowledge to determine he needed to do anything other than get registered with Packers & Stockyards and be bonded. He did not willfully ignore the Complaint.”¹⁰

While I sympathize with Respondent's personal and financial circumstances, they do not excuse his failure to file a timely answer.¹¹ Similarly, that Respondent did not have an attorney

⁸ Respondent's only other filing was a May 18, 2021 email to the Hearing Clerk's Office authorizing OALJ to “contact [him] and provide information by email at [his mother's] email address.” Respondent's Email at 1.

⁹ See *supra* note 2.

¹⁰ Respondent's Proposed Decision at 1.

¹¹ See *Everhart*, 56 Agric. Dec. 1400, 1415-17 (U.S.D.A. 1997).

and did not “willfully ignore the Complaint” is immaterial.¹² Respondent explicitly admitted that he neglected to answer the Complaint;¹³ therefore, Respondent is deemed to have admitted the material allegations of the Complaint and waived the opportunity for hearing.¹⁴

As Respondent failed to file a timely answer to 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 Trampas Jordan is an individual whose current address is in [REDACTED].
2. Respondent is and at all times material herein was:
 - a. Engaged in the business of a market agency buying livestock on a commission basis;
and

¹² See *Octagon Sequence of Eight, Inc.*, 66 Agric. Dec. 1283, 1285-86 (U.S.D.A. 2007) (Order Den. Pet. for Rehearing as to Lancelot Kollman Ramos) (finding no reasonable basis for respondent’s ignorance for the provision in the Rules of Practice that failure to deny or otherwise respond to a complaint allegations is deemed an admission thereof and rejecting respondent’s “suggestion that his status a pro se litigant operate as an excuse for his failure to deny or otherwise respond to the allegations in the Complaint”); see also *Jones*, 74 Agric. Dec. 133, 142 (U.S.D.A. 2015) (finding that “possible lack of understanding of the procedures applicable to this proceeding, and . . . lack of legal training are not excuses for [a respondent’s] failure to file a timely answer or bases for setting aside [an] ALJ’s Default Decision”); *Arends*, 70 Agric. Dec. 839, 857 (U.S.D.A. 2011) (stating *pro se* status is not relevant to whether a party filed a timely answer or whether a motion for default should be granted); *Vigne*, 68 Agric. Dec. 362, 354 (U.S.D.A. 2009) (Order Den. Pet. to Reconsider) (stating the Rules of Practice do not distinguish between persons who appear *pro se* and persons represented by counsel, and a respondent’s status as a *pro se* litigant is not a basis on which to set aside her waiver of the right to an oral hearing); *Noell*, 58 Agric. Dec. 130, 146 (U.S.D.A. 1999) (stating lack of representation by counsel is not a basis for setting aside a default decision), *appeal dismissed sub nom. The Chimp Farm, Inc. v. U.S. Dep’t of Agric.*, No. 00-10608 (11th Cir. Feb. 7, 2000).

¹³ See Response at 1 (“I apologize to the Court for not responding.”).

¹⁴ See 7 C.F.R. § 1.139.

- b. Not registered with the Secretary of Agriculture as a market agency to buy livestock on a commission basis.
3. On November 1, 2019, the Agricultural Marketing Service, Fair Trade Practices Program, Packers and Stockyards Division, sent Respondent a Notice of Default notifying Respondent of his obligation to file an application for registration and to secure a bond if he wished to engage in the business of buying and selling livestock in interstate commerce. The Notice of Default also informed Respondent that engaging in business in any capacity that is subject to the Act without complying with the registration provisions of the Act and without filing an adequate bond or bond equivalent is a violation of the Act and Regulations and could subject him to disciplinary action. Notwithstanding the Notice of Default, Respondent has continued to engage in the business of buying livestock in commerce without registering with the Secretary or maintaining an adequate bond or bond equivalent as required by the Act and Regulations.
4. During the period from December 7, 2019 through January 25, 2020, Respondent purchased a total of 292 head of livestock in nineteen transactions involving Tri-County Livestock Market, Inc. in New Summerfield, Texas, for a total purchase price of \$182,697.79. In each of these transactions, Respondent engaged in the business of a market agency buying livestock on a commission basis without being registered with the Secretary and maintaining an adequate bond or bond equivalent.

Conclusions

1. The Secretary of Agriculture has jurisdiction in this matter.

2. Respondent Trampas Jordan has willfully violated section 312(a) of the Packers and Stockyards Act (7 U.S.C. § 213(a)) and sections 201.29 and 201.30 of the Regulations (9 C.F.R. §§ 2021.29 and 201.30).

ORDER

1. Complainant's Motion for Decision Without Hearing by Reason of Default is GRANTED.
2. Respondent Trampas Jordan, his 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 engaging in the business of buying livestock in commerce without registering with the Secretary or maintaining an adequate bond or bond equivalent as required by the Act and Regulations.
3. Respondent is further assessed a civil penalty of \$37,905.00, to be paid immediately upon the final and effective date of this Order. The payment shall be a check or money order payable to the United States Treasury and include the docket number of this proceeding in the memo line. The payment shall be sent to the following address: USDA, Fair Trade Practices Program, Packers and Stockyards Division, P.O. Box 979064, St. Louis, MO 63197-9000.
4. Respondent is further suspended from engaging in any business in any capacity for which registration is required under the Act until he is properly registered and bonded as required by the Act.

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 upon the parties and counsel by the Hearing Clerk.

Done at Washington, D.C.,
this 16th day of June 2021

CHANNING STROTHER  Digitally signed by CHANNING STROTHER
Date: 2021.06.16 16:03:03 -04'00'

Channing D. Strother
Chief Administrative Law Judge

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