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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
) P. & S. Docket No. D-08-0046
)
Peter Congelosi,)
)
)
)
Respondent)
) Decision Without Hearing
) by Reason of Default

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.*)(hereinafter referred to as the "Act"), instituted by a Complaint filed on December 28, 2007, by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection Packers and Stockyards Association (GIPSA), United States Department of Agriculture. The Complaint alleged that Peter Congelosi (hereinafter "Respondent") engaged in the business of buying and selling livestock in commerce for his own account without having a bond or bond equivalent as required by the Act and the regulations promulgated under the Act. 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 served on Respondent by certified mail on January 22, 2008 and again by regular mail on February 20, 2008. Respondent was informed in a 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 has failed to file an answer within the time period required under the Rules of

Practice (7 C.F.R. § 1.136), and the material facts alleged in the Complaint, which are admitted by Respondent's failure to file an answer, are adopted and set forth in this decision and order as findings of fact. Based on these admissions, Complainant's motion for the issuance of a Default Order, made pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139), shall be issued without further procedure.

Finding of Fact

1. Peter Congelosi (hereinafter "Respondent") is an individual whose mailing address is 161 Anawana Lake Road, Monticello, New York 12701
2. Respondent at all times material to the Complaint was engaged in the business of buying and selling livestock in commerce for his own account.
3. Respondent was registered as a dealer and as a market agency with the Secretary of Agriculture to buy livestock in commerce on commission basis.
4. The Secretary has jurisdiction over Respondent and the subject matter involved herein.
5. Respondent failed to secure a bond or bond equivalent as required by the Act and the regulations, despite notification by certified mail and multiple phone communications from GIPSA personnel. Respondent was informed of the bonding requirements and notified that he must refrain from engaging in activities subject to the Act until the bonding requirements had been met. Despite these notices, Respondent continued to engage in the business of a dealer without first obtaining a bond or bond equivalent.

Conclusions

By failing to secure a bond or bond equivalent before engaging in business subject to the Act, Respondent willfully violated Sections 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).

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 has 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

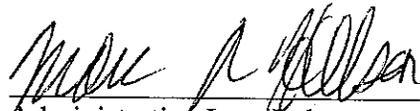
Respondent Peter Congelosi, shall cease and desist from engaging in operations subject to the Act without first obtaining the requisite bond or bond equivalent and is assessed \$1,000 as a civil penalty.

Pursuant to the Rules of Practice governing procedures under the Act, this Decision will become final without further proceedings 35 days after service hereof unless appealed to the Secretary by a party to the proceeding within 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 hereof shall be served upon the parties.

Done at Washington, D.C.

this 5th day of August, 2008



Administrative Law Judge