

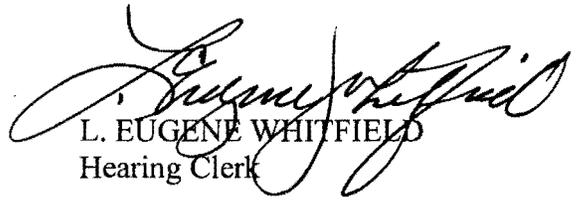
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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re: G. Patrick Zweifel, d/b/a S&P)	P&S Docket No. D-09-0009
Livestock Exchange, and d/b/a)	
Springtime Sales, and d/b/a)	Notice of Effective Date
Springtime Dairy,)	of Decision Without Hearing
)	by Reason of Default
Respondent)	
)	

The Decision Without Hearing by Reason of Default, issued by Administrative Law Judge Marc R. Hillson on May 18, 2009, has not been appealed to the Secretary within the allotted time.

In accordance with the applicable rules of practice, the Decision and Order became final and effective on July 6, 2009.



L. EUGENE WHITFIELD
Hearing Clerk

Dated: July 7, 2009



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received
5-19-09

**United States
Department of
Agriculture**

CERTIFIED RECEIPT REQUESTED

Office of
Administrative
Law Judges

May 19, 2009

Hearing Clerk

Mr. G. Patrick Zweifel
d/b/a S&P Livestock Exchange
and d/b/a Springtime Sales
and d/b/a Springtime Dairy
11628 W. Orfordville
Hanover Road
Orfordville, WI 53576

Room 1031
South Building

1400 Independence
Avenue SW

Washington, DC
20250-9200

(202) 720-4443
(202) 720-9776 fax

Dear Sir:

Subject: In re G. Patrick Zweifel, d/b/a S&P Livestock Exchange, and d/b/a Springtime Sales, and d/b/a Springtime Dairy, Respondent
P & S Docket No. D-09-0009

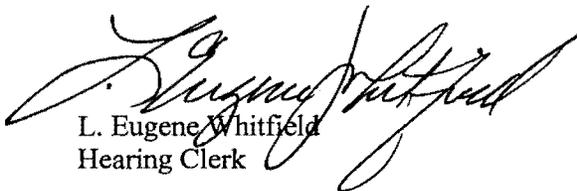
Enclosed is a copy of the Decision Without Hearing by Reason of Default, issued in this proceeding by Administrative Law Judge Marc R. Hillson on May 18, 2009.

Each party has **thirty [30]** days from the service of this Decision Without Hearing by Reason of Default in which to file an appeal to the Department's Judicial Officer.

If no appeal is filed, the Decision shall become binding and effective as to each party **thirty-five [35]** days after its service. However, no decision or order is final for purposes of judicial review except a final order issued by the Secretary or the Judicial Officer pursuant to an appeal.

In the event you elect to file an appeal, an original and three [3] copies are required. You are also instructed to consult § 1.145 of the Uniform Rules of Practice [7 C.F.R. § 1.145] for the procedure for filing an appeal.

Sincerely,



L. Eugene Whitfield
Hearing Clerk

Enclosure:

cc: ✓ Leah C. Battaglioli, Trade Practices Div., OGC -- with enclosure.
Alan R. Christian, P&SP -- with enclosure

fccangeles/5/19/09

5-19-09

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	P. & S. Docket No. D-09-0009
G. Patrick Zweifel, d/b/a S & P)	
Livestock Exchange, and d/b/a)	
Springtime Sales, and d/b/a)	
Springtime Dairy)	
)	
Respondent)	
)	
)	Decision Without Hearing By
)	Reason of Default

This disciplinary proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.; hereinafter “Act”), by a Complaint filed on October 8, 2008, by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture (hereinafter “Complainant”), alleging that Respondent G. Patrick Zweifel, d/b/a S & P Livestock Exchange, and d/b/a Springtime Sales, and d/b/a Springtime Dairy (hereinafter “Respondent”) willfully violated the Act and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.; hereinafter “Regulations”).

The Complaint and a copy of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 et seq.; hereinafter “Rules of Practice”) were served on Respondent by certified mail on October 29, 2008. Respondent was informed in a letter of service that an answer must be filed within 20 days of service and that failure to file an answer would constitute an admission of all the material allegations contained in the Complaint and a waiver of his right to an oral hearing.

In addition, in a certified letter dated October 28, 2008, and served upon Respondent on November 3, 2008, Complainant’s attorney informed Respondent that if he had not already filed

an answer, he should do so within 20 days from the receipt of the Complaint and that failure to file an answer constitutes an admission of all the material allegations in the Complaint and a waiver of his right to an oral hearing. Respondent was also informed that Complainant would seek a suspension of Respondent's registration under the Act.

Respondent has failed to file an answer within the time period prescribed by 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 herein as findings of fact¹. Therefore, upon Complainant's motion, this decision and order is issued pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent G. Patrick Zweifel, d/b/a S & P Livestock Exchange, and d/b/a Springtime Sales, and d/b/a Springtime Dairy, is an individual whose mailing address is P.O. Box 128, Orfordville, Wisconsin 53576-0128.
2. At all times material to the Complaint, Respondent was:
 - (a) Engaged in the business of buying and selling livestock in commerce as a dealer for his own account; and
 - (b) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for his own account.
3. On May 18, 2006, the Des Moines, Iowa regional office of Complainant received a letter of credit notification from Wisconsin Community Bank stating that the letter of credit #112-05 for Respondent would mature on August 8, 2006, and that it would not be renewed. In

¹ Several documents indicating that Respondent had filed for bankruptcy were received by the Hearing Clerk. However, no requests for a stay or extension of time were filed, and it is well settled that the bankruptcy stay provisions do not apply to government enforcement actions such as this.

a certified letter dated May 26, 2006, and served upon Respondent on June 1, 2006, Bryce A. Wilke, Trade Practices Supervisor of the Des Moines, Iowa regional office of Complainant, informed Respondent that the regional office had received notice that Respondent's letter of credit would expire on August 6, 2006, and would not be renewed. Respondent was informed that unless he filed a replacement letter of credit, new bond, or bond equivalent on or before August 6, 2006, he must discontinue all livestock operations for which bonding is required under the Act and the Regulations. Respondent was further informed that continuing livestock operations without filing an adequate bond or bond equivalent was a violation of section 312(a) of the Act (7 U.S.C. § 213(a)) and section 201.29 of the Regulations (9 C.F.R. § 201.29) and subject to disciplinary action.

4. In a certified letter dated September 28, 2006, and served upon Respondent on October 11, 2006, Bryce A. Wilke, Competition/Trade Practices Supervisor of the Des Moines, Iowa regional office of Complainant, informed Respondent that the regional office had received written notice from Wisconsin Community Bank requesting termination of Respondent's trust agreement TA No. WI-2041. Respondent was informed that the trust agreement would terminate on October 8, 2006. Respondent was again informed that continuing livestock operations without filing a bond or a bond equivalent was a violation of the Act.

5. On or about the dates and in the transactions set forth in Appendices A and B and incorporated herein by reference, Respondent engaged in the business of buying and selling livestock as a dealer without maintaining an adequate bond or bond equivalent. Respondent purchased livestock at two posted stockyards: (1) Kalona Sales Barn, Inc., Kalona, Iowa, and (2) T.A.H. Livestock, Inc., Winslow, Illinois. Respondent sold the livestock at auctions conducted by Respondent's auction service company, Cow Biz, LLC, on Respondent's farm in Orfordville,

Wisconsin under the trade name “Springtime Dairy.”

6. On or about the dates and in the transactions set forth in Appendix C and incorporated herein by reference, Respondent issued checks in payment for livestock purchases, which checks were returned unpaid by the bank upon which they were drawn because Respondent did not have and maintain sufficient funds on deposit and available in the account upon which the checks were drawn to pay the checks when presented.

7. Respondent, in connection with his operations subject to the Act, on or about the dates and in the transactions set forth in Appendix C and incorporated herein by reference, failed to pay the full amount of the purchase price for livestock within the time period required by the Act, with the total amount remaining unpaid of \$113,354.12 as of September 25, 2008.

Conclusions

By reason of the facts found in Findings of Fact 3 through 5, Respondent has 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).

By reason of the facts found in Findings of Fact 6 and 7, Respondent has willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a), 409).

Order

Respondent G. Patrick Zweifel, d/b/a S & P Livestock Exchange, and d/b/a Springtime Sales, and d/b/a Springtime Dairy, his agents and employees, directly or through any corporate or other device, in connection with Respondent’s operations subject to the Act, shall cease and desist from:

1. Engaging in business in any capacity for which bonding is required under the Act and the Regulations, without filing and maintaining an adequate bond or its

equivalent, as required by the Act and the Regulations;

2. Issuing checks in purported payment of livestock purchases without having and maintaining sufficient funds on deposit and available in the account upon which such checks are drawn to pay such checks when presented;
3. Failing to pay, when due, for livestock purchases; and
4. Failing to pay the full purchase price for livestock purchases.

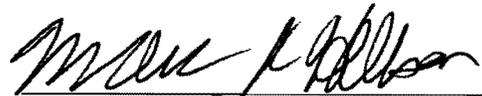
Respondent is hereby suspended as a registrant under the Act for a period of five (5) years pursuant to 7 U.S.C. § 204.

This decision and order shall become final and effective without further proceedings thirty-five (35) days after service on Respondent, unless appealed to the Judicial Officer by a party to the proceeding 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, 1.145).

Copies of this decision and order shall be served upon the parties.

Done at Washington, D.C.

this 18th day of May, 2009



Administrative Law Judge

Appendix A

G. Patrick Zweifel, d/b/a S & P Livestock Exchange, and d/b/a Springtime Sales, and d/b/a Springtime Dairy
 Purchase Transactions Traced Through to Sale

Purchase Date	Location of Transaction	No. of Head	Total Livestock Purchase Amount	Sale Date	Location of Transaction	Buyer	No. of Head	Total Sale Amount
9/15/2006	T.A.H. Livestock, Inc. Winslow, Illinois	27	\$35,650.00	10/14/2006	Orfordville, Wisconsin	Mike Williams	1	\$850.00
9/29/2006	T.A.H. Livestock, Inc. Winslow, Illinois	16	\$24,100.00	10/14/2006	Orfordville, Wisconsin	Mike Williams	3	\$4,600.00
						Reuben Sensenig	1	\$1,900.00
						Charles Aaron Wickersheim Wickersheim Dairy Farm White Lake, WI	3	\$4,550.00
						Dan Haldiman South Wayne, WI	1	\$2,000.00
						Spring Grove Dairy Brodhead, WI	1	\$1,800.00
						Tom Padgett	1	\$1,800.00
9/29/2006	T.A.H. Livestock, Inc. Winslow, Illinois	6	\$4,750.00	10/14/2006	Orfordville, Wisconsin	Mike Williams	1	\$1,350.00
9/29/2006	T.A.H. Livestock, Inc. Winslow, Illinois	4	\$2,875.00	10/14/2006	Orfordville, Wisconsin	Charles Aaron Wickersheim Wickersheim Dairy Farm White Lake, WI	1	\$850.00
						Tom Padgett	1	\$1,350.00
						Spring Grove Dairy Brodhead, WI	1	\$2,050.00
10/9/2006	Kalona Sales Barn, Inc. Kalona, Iowa	20	\$26,412.08	10/14/2006	Orfordville, Wisconsin	Charles Aaron Wickersheim Wickersheim Dairy Farm White Lake, WI	5	\$8,350.00
						Tom Padgett	2	\$3,100.00
						Dan Haldiman South Wayne, WI	2	\$4,050.00
						Steve Schmitt Sweetwater Farms, Inc. Dane, WI	1	\$2,000.00

Appendix B

G. Patrick Zweifel, d/b/a S & P Livestock Exchange, and d/b/a Springtime Sales, and d/b/a Springtime Dairy Sale Transactions

Sale Date	Location of Transaction	Buyer	No. of Head	Total Livestock Amount
10/14/2006	Orfordville, WI	Spring Grove Dairy Brodhead, WI	11	\$17,300.00
10/14/2006	Orfordville, WI	Craig Doescher Doescher Dairy Farm Argyle, WI	2	\$2,900.00
10/14/2006	Orfordville, WI	Dan Haldiman South Wayne, WI	8	\$15,950.00
10/14/2006	Orfordville, WI	Steve Schmitt Sweetwater Farms, Inc. Dane, WI	1	\$2,000.00
10/14/2006	Orfordville, WI	Charles Aaron Wickersheim Wickersheim Dairy Farm White Lake, WI	32	\$50,400.00
10/14/2006	Orfordville, WI	Mike Williams	28	\$34,350.00
10/14/2006	Orfordville, WI	Buyer No. 30	6	\$8,850.00
10/14/2006	Orfordville, WI	Tom Padgett	12	\$18,200.00
10/14/2006	Orfordville, WI	Reuben Sensenig	9	\$15,800.00
11/4/2006	Orfordville, WI	Frank Dwyer	14	\$24,725.00
11/4/2006	Orfordville, WI	Gene Wilson	1	\$2,100.00
11/4/2006	Orfordville, WI	Fritz Yaun	1	\$1,350.00
11/4/2006	Orfordville, WI	Steve Van Dyke Steve Van Dyke Farm Randolph, WI	10	\$15,175.00
11/4/2006	Orfordville, WI	John Breuch Milladore, WI	5	\$9,650.00
11/4/2006	Orfordville, WI	Dan Haldiman South Wayne, WI	2	\$4,300.00
11/4/2006	Orfordville, WI	Carrie Groebner Juda, WI	1	\$475.00
11/4/2006	Orfordville, WI	Roger Doyle Hazel Green, WI	10	\$11,950.00
11/4/2006	Orfordville, WI	Steve Schmitt Sweetwater Farms, Inc. Dane, WI	16	\$31,400.00
11/4/2006	Orfordville, WI	Spring Grove Dairy Brodhead, WI	2	\$2,550.00
11/4/2006	Orfordville, WI	Mike Ries, Hopkinton, IA	4	\$5,800.00
11/4/2006	Orfordville, WI	Mike Ries, Hopkinton, IA	1	\$1,500.00

Appendix C

G. Patrick Zweifel, d/b/a S & P Livestock, and d/b/a Springtime Sales, and d/b/a Springtime Dairy
 Failure to Pay, Failure to Pay, When Due, and NSF Checks

Seller	Purchase Date	Date Payment Due Per 409(a)	Number of Head	Livestock Amount	Check Number	Check Date	Check Amount	Date Seller Notified of Returned Check	Reason for Returned Check	Payment Method	Date Paid	Amount Paid by Other Means	Balance Owed for Livestock Amount	No. of Days From Payment Due Date Until Paid in Full	
Steve and Dori Lichty Loyal, Wisconsin	05/24/06	5/25/2006	46	\$60,500.00	8726	06/11/06	\$15,000.00	06/14/06	NSF	Cashier's Check	05/24/06	\$2,000.00			
										Cashier's Check	06/19/06 ^a	\$7,000.00			
										Cashier's Check	06/22/06 ^a	\$8,000.00			
										Wire	08/25/06	\$14,641.03			
										Wire	09/07/06	\$14,641.03			
Wire	09/14/06	\$14,610.00 ^b													
Seidl Livestock Sales, Inc. Denmark, Wisconsin	09/08/06	09/11/06	14	\$26,500.00	8762	09/08/06	\$26,500.00		NSF	Wire	09/19/06	\$9,000.00			
Wire	10/13/06	\$9,000.00	\$8,500.00												
Stephen Garb, d/b/a Beaver Livestock Service Beaver Dam, Wisconsin	09/29/06	10/02/06	1	\$1,050.00	8768	09/29/06	\$1,050.00	10/12/06	NSF	Check ^c	10/25/06	\$1,050.00		23	
Kalona Sales Barn, Inc. Kalona, Iowa	11/20/06	11/21/06	24	\$24,560.00	5022	11/20/06	\$24,560.00	12/18/06	NSF	Consigned Livestock ^d	12/30/06	\$14,305.88	\$10,254.12 ^e		
Loepker Dairy Bartelso, Illinois	02/05/07	02/06/07	37	\$45,500.00	5225	03/01/07	\$25,000.00	03/15/07	NSF	Livestock Retrieval ^f	04/04/07	\$10,000.00			
Cash	04/04/07	\$1,000.00													
Check	04/15/08	\$500.00													
Check	Aug-08 ^g	\$500.00													
Check	Sep-08 ^g	\$500.00	\$33,000.00												
Roger Payne & Sons Holsteins Glasgow, Kentucky	02/14/07	02/15/07	52	\$53,100.00	9160	02/14/07	\$53,100.00	03/21/07	NSF ^h	Cashier's Check	05/10/07 ⁱ	\$28,000.00	\$25,100.00 ^j		
Greg Heit, d/b/a Durand Auction Service, Inc. Durand, Wisconsin	02/28/07	02/29/07	23	\$36,500.00	5224	02/28/07	\$36,500.00	03/13/07	NSF				\$36,500.00		
				\$247,710.00					\$181,710.00			\$134,747.94	\$113,354.12		

^a Date of deposit.

^b Due to the NSF check, Respondent agreed to pay a total of \$60,923.09, which includes interest in the amount of \$423.09. Respondent still owes \$31.03 in interest.

^c Respondent sold livestock at Kane Livestock Sales, Inc., Reeseville, Wisconsin on October 25, 2006, and had Pate Kane deduct \$1,050.00 from Respondent's proceeds of sale and issue a check to Stephen Garb. Pat Kane issued check no. 35852 in the amount of \$1,050.00 to Stephen Garb on October 25, 2006.

^d On December 30, 2006, Respondent consigned 28 head of cattle to Kalona Sales Barn, Inc., in the total amount of \$45,550.00 to credit against the amount still due by Respondent.

^e Respondent carried a running livestock balance with Kalona Sales Barn, Inc., of \$55,804.12 after Respondent's November 20, 2006, purchase. The total excludes a \$600.00 trucking fee. The \$45,550.00 worth of consigned livestock was applied to Respondent's running livestock balance leaving a balance of \$10,254.12 due for the November 20, 2008, purchase.

^f On April 4, 2007, Daniel Loepker of Loepker Dairy retrieved 12 head of the cattle that he had sold to Respondent valued at \$10,000.00.

^g Daniel Loepker drove out to Respondent's farm approximately one month ago. Respondent gave Mr. Loepker three checks for \$500.00 each postdated for August, September, and October 2008 respectively. Mr. Loepker cashed the August and September checks. As of September 25, 2008, the October check has yet to be cashed.

^h The check was stamped "RETURN REASON - D CLOSED ACCOUNT."

ⁱ According to a letter from the attorney for Roger Payne & Sons Holsteins dated May 10, 2007, a cashier's check in the amount of \$25,000.00 from Respondent had cleared Respondent's account.

^j The livestock balance due does not include additional charges for trucking, attorney fees, and interest on the unpaid balance, which Respondent agreed to pay, totaling \$6,142.50.