

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 10-0455

In re: Charles Jeffers,

Respondent

**Decision and Order**

This disciplinary proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*) (Act), by a Complaint filed on September 29, 2010, by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture (Complainant), alleging that Charles Jeffers (Respondent), willfully violated the Act and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 *et seq.*) (Regulations).

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 on Respondent by certified mail on October 20, 2010. Respondent was informed in the accompanying 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 submitted an untimely response to the Hearing Clerk dated November 7, 2010, on his own behalf which was received by the Hearing Clerk on November 15, 2010. In his reply letter, Respondent admitted that he tried to satisfy some of the debt owed to sellers of

livestock named in the Complaint, but Respondent failed to indicate whether he extinguished any of his debt. Blame for his financial problems was placed upon his purchase of a “lemon” from the Ford Motor Company. The Response fails to contain any legitimate defense to the allegations in the complaint that he purchased and failed to pay the full purchase price for livestock and did not admit, deny, or otherwise respond to the remaining allegations of the complaint. The Complainant has moved for entry of a Decision without Hearing.

Even were the Respondent’s failure to file an answer within the time provided under 7 C.F.R. § 1.136(a) not deemed an admission of the allegations in the complaint (7 C.F.R. § 1.136(c)), Section 1.136(b) of the Rules of Practice, 7 C.F.R. § 1.136(b), requires that any Answer “(c)learly admit, deny or explain each of the allegations in the Complaint.” The failure to “deny or otherwise respond to an allegation” is deemed to be an admission of it. 7 C.F.R. §1.136(c). As Respondent's reply letter constitutes an admission of the material allegations contained in the Complaint, the following Findings of Fact, Conclusions of Law and Order will be entered without the need for further proceedings.

**Findings of Fact**

1. Charles Jeffers (Respondent) is an individual residing in Somerset, Ohio.
2. Respondent at all times material to this decision was:
  - a. Engaged in the business of buying and selling livestock in commerce as a dealer for its own account or account of others; and
  - b. Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for its own account.
3. Respondent, on or about the dates and in the transactions set forth below, Respondent purchased livestock and failed to pay the full purchase price of such livestock.

Purchased From	Purchase Date	DUE DATE PER §409 (a)	No. of Head	Livestock Amount	Check Date	Check Number	Stop Payment Date
United Producers, Inc.	9/17/2008	9/18/2008	18	\$1,319.50 <sup>1</sup>	N/A	N/A	N/A
Bussert & Sons, Inc	9/19/2008	9/22/2008	48	\$2,931.80	10/3/2008	3061	10/10/2008
	9/27/2008	9/29/2008	47	\$2,646.47	N/A	N/A	N/A
United Producers, Inc.	10/1/2008	10/2/2008	19	\$824.45 <sup>2</sup>	N/A	N/A	N/A
S&S Farms	10/2/2008	10/3/2008	55	\$2,105.15 <sup>3</sup>	10/3/2008	3062	10/15/2008
	10/2/2008	10/3/2008	102	\$4,901.82 <sup>4</sup>	10/3/2008	3063	10/10/2008
Bussert & Sons, Inc	10/3/2008	10/6/2008	15	\$491.40	N/A	N/A	N/A
United Producers, Inc.	10/6/2008	10/9/2008	12	\$509.00	N/A	N/A	N/A
United Producers, Inc.	10/9/2008	10/10/2008	82	\$5,582.80 <sup>5</sup>	10/9/2008	3066	10/15/2008
Bussert & Sons, Inc	10/10/2008	10/14/2008	41	\$2,288.05	N/A	N/A	N/A
<b>TOTALS</b>			<b>439</b>	<b>\$23,600.44<sup>6</sup></b>			

4. As of the date of issuance of this decision, all of the \$23,600.44 referred to in Finding of Fact 3 remains unpaid.

### Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. By reason of the facts found in Findings of Fact 3 and 4, Respondent has willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a), 228b).

<sup>1</sup> A miscellaneous deduction of \$2.78 made the total purchase amount \$1,316.72.

<sup>2</sup> A miscellaneous deduction of \$5.98 made the total purchase amount \$818.47.

<sup>3</sup> A commission charge of \$137.50 made the total purchase amount \$2,242.65.

<sup>4</sup> A commission charge of \$255.00 made the total purchase amount \$5,156.82

<sup>5</sup> A miscellaneous deduction of \$47.07 made the total purchase amount \$5,535.73

<sup>6</sup> The total purchase amount equaled \$23,937.11.

## Order

1. Respondent Charles Jeffers, directly or through any corporate or other device, in connection with his activities subject to the Act, shall cease and desist from failing to pay the full purchase price of livestock.
2. In accordance with section 312(b) of the Act, Respondent is suspended as a registrant under the Act for a period of five (5) years. This suspension may be modified to permit Respondent's salaried employment by another registrant or packer after the expiration of the initial 120 days of the suspension term upon demonstration to the Packers and Stockyards Program, GIPSA, of circumstances warranting modification of the suspension. In this case, circumstances that may warrant modification of the suspension include proof that full payment has been made to the unpaid livestock sellers or consignors named above or secure the approval of the unpaid seller to a plan for payment.
3. 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.

June 30, 2011

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**PETER M. DAVENPORT**  
Chief Administrative Law Judge