

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0452

In re: Terry Dustin Matthews, d.b.a.
Moo Moo's Cattle Co.,

Respondent

Default Decision and Order

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.*), herein referred to as the Act, instituted by a Complaint and Order to Show Cause filed on March 27, 2012 by Alan R. Christian, the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that Terry Dustin Matthews doing business as Moo Moo's Cattle Co., (Respondent), willfully violated the Act.

Service of the Complaint and Order to Show Cause was attempted by certified mail; however, the mail was returned as "unclaimed." Consistent with the Rules of Practice, a copy of the Complaint and a copy of the Rules of Practice were then mailed to Respondent on July 3, 2012 pursuant to section 1.147 of the Rules of Practice. Respondent was informed in the 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 failed to file an answer within the time period prescribed by the Rules of Practice (7 C.F.R. § 1.136) and the following Findings of Fact, Conclusions of Law and Order

will be entered pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent Terry Dustin Matthews is an individual with a mailing address in McKenzie, Alabama doing business as Moo Moo's Cattle Co.
2. Respondent, at all times material herein, was:
 - a) Engaged in business as a dealer, buying and selling livestock in commerce for his own account; and
 - (b) Not registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for his own account.
3. On May 14, 2008, a Packers and Stockyards Auditor conducted a review of Respondent's livestock dealer operations and found that Respondent had both failed to pay promptly for livestock purchases, as well as had issued checks in payment for livestock that were returned due to insufficient funds. As a result, a Notice of Violation, dated June 19, 2008, was mailed to Respondent via certified mail and received at Respondent's home address on June 26, 2008. This Notice of Violation advised Respondent to comply with the prompt payment provisions for livestock purchases required under section 409 of the Act.
4. Notwithstanding such notice, between February 8, 2010 and March 8, 2010 and in the transactions set forth in Appendix A appended to the Complaint, Respondent purchased livestock in commerce and failed to pay, when due, the full purchase price of such livestock. Respondent issued checks in partial payment for livestock purchases which were returned 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 such checks when presented.

5. On June 11, 2010, Respondent's dealer registration to buy and sell livestock in commerce for his own account expired.

6. On October 25, 2010, the Packers and Stockyards Program, Eastern Regional Office, received a completed registration application from Respondent requesting registration as a dealer to buy and sell livestock in interstate commerce.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. Respondent willfully violated sections 312(a) and 409 of the Act and is unfit to engage in business in any capacity for which registration and bonding is required by the Act and its Regulations.

Order

1. Respondent's application for registration as a dealer is denied.
2. Respondent, his agents and employees, directly or through any corporate or other device, in connection with activities subject to the Act, shall cease and desist from:
 - a. failing to pay, when due, for livestock purchases in contravention of sections 312(a) and 409 of the Act (7 U.S.C. § 213(a) and § 228b); and
 - b. issuing checks with insufficient funds in payment for livestock purchases in contravention of sections 312(a) and 409 of the Act (7 U.S.C. § 213(a) and § 228b).
3. Respondent is assessed a civil penalty of \$8,100.00

4. This Decision shall become final and effective without further proceedings 35 days after the date of service upon Respondent, unless it is appealed to the Judicial Officer by a party to the proceeding within thirty (30) days pursuant to section 1.145 of the Rules of Practice (7 C.F.R § 1.145).

Copies of this Decision and Order shall be served upon the parties.

November 6, 2012

Peter M. Davenport
Chief Administrative Law Judge