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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re: Ganaderos Unidos Mexicanos, LLC; and Fernando Ramirez, Respondents.	P&S Docket No. 24-J-0068 P&S Docket No 24-J-0069

DECISION AND ORDER WITHOUT HEARING BY REASON OF DEFAULT

Appearance:

Michelle McMurtray, Esq., Office of the General Counsel, United States Department of Agriculture, Washington, DC, for the Complainant, Deputy Administrator, Packers and Stockyards Division, Fair Trade Practices Program, Agricultural Marketing Service ("AMS")

This is a 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.*); 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, Packers and Stockyards Division, Fair Trade Practices Program, Agricultural Marketing Service ("AMS"), United States Department of Agriculture ("Complainant"), initiated this proceeding by filing a complaint against Ganaderos Unidos Mexicanos, LLC and Fernando Ramirez ("Respondents") on June 28, 2024. The Complaint alleged that Respondent willfully violated sections 312(a) the Act (7 U.S.C. § 213(a)) and section 201.29(b) of the Regulations (9 C.F.R. § 201.29(b)) by engaging in the business of a dealer buying and selling livestock in 25 separate transactions, in the total amount of

$1,348,223.75, without maintaining an adequate bond or bond equivalent.[1] The Complaint requested:

> 1. That *unless Respondents fail to file an answer in the time allowed* or files [sic] an answer admitting the material allegations of this Complaint, this proceeding be set for oral hearing in accordance with the Rules of Practice; and
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> 2. That such orders are issued as are authorized by the Act and warranted under the circumstances, including an order:
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> a. Requiring Respondents to cease and desist from violating the Act and the Regulations, as stated, *inter alia*, in the Complaint above;
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> b. Requiring that Respondents not engage in operations subject to the Act unless or until adequately bonded as required by 7 U.S.C. § 204, and assessing such civil penalty as authorized by the Act and warranted by the facts and circumstances of this case; and
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> c. Granting relief as may be appropriate and warranted under the Act and in the circumstances of this case.

Complaint at 4 (emphasis added).

Respondents were duly served with a copy of the Complaint and did not file an answer within the 20-day period as prescribed by section 1.136 of the Rules of Practice (7 C.F.R. § 1.136), nor have Respondents filed such an answer since that deadline.[2]

On August 13, 2024, I issued an order directing the parties to show cause ("Show Cause Order"), not later than 20 days after that date, why default should not be entered against

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[1] Complaint at 3.

[2] United States Postal Service records reflect that the Complaint was sent to Respondents via certified mail and delivered on July 8, 2024. Respondents had 20 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 workday. 7 C.F.R. § 1.147(h). In this case, Respondents' answer was due on or before July 29, 2024. Respondents have not filed an answer.

Respondents.[3]

On September 3, 2024, Complainant filed a motion for decision without hearing by reason of default ("Motion for Default") and proposed decision and order without hearing by reason of default ("Proposed Decision") pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139). Complainant now requests an order requiring Respondents to cease and desist from engaging in operations subject to the Act without being adequately bonded, suspending Respondents as registrants "pursuant to 7 U.S.C. § 204 for 180 calendar days from the date of issue of this order," and requiring Respondents to "obtain an adequate bond."[4] I note that Complainant no longer seeks the assessment of civil penalties.[5]

Respondents did not respond to the Show Cause Order and have not filed any objections to Complainant's Motion for Default or Proposed Decision. [6]

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

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[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.

[4] Proposed Decision at 4-5; Motion for Default at 4.

[5] *See* Motion for Default at 5; Proposed Decision at 4-5.

[6] United States Postal Service records reflect that the Motion for Default and Proposed Decision were sent to Respondents via certified mail and returned to the Hearing Clerk's Office as "unclaimed." In accordance with the Rules of Practice, the Hearing Clerk re-mailed (*see* 7 C.F.R. § 1.132) the Motion for Default and Proposed Decision to the same address by ordinary mail on January 29, 2025. 7 C.F.R. § 1.147(c)(1). Respondents had 20 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 workday. 7 C.F.R. § 1.147(h). In this case, Respondents' objections were due on or before February 18, 2025. Respondents have not filed any objections.

the Complaint, unless the parties have agreed to a consent decision.[7] Other than a consent decision, the Rules of Practice do not provide for exceptions to the regulatory consequences of an untimely answer where, as in the present case, no meritorious objections have been filed.[8]

Sanctions

As noted previously, Complainant requests an order requiring Respondents to cease and desist from engaging in operations subject to the Act without being adequately bonded, suspending Respondents as registrants for 180 calendar days, and requiring Respondents to obtain a bond.[9] The Act specifically provides for these sanctions; section 312(b) specifically authorizes the Secretary to, among other things, issue an order requiring a registrant to cease and desist from violating the Act and to suspend a registrant "for a reasonable period" for his or her violations.[10] With regard to sanction determinations, the Judicial Officer has explained:

> [T]he sanction in each case will be determined by examining the nature of the violations in relation to the remedial purposes of the regulatory statute involved, along with all relevant circumstances, always giving appropriate weight to the recommendation of the administrative officials charged with the responsibility for achieving the congressional purpose.

S.S. Farms Linn Cnty., Inc., 50 Agric. Dec. 476, 497 (U.S.D.A. 1991) (Decision as to James Joseph Hickey & Shannon Hansen), *aff'd*, 991 F.2d 803 (9th Cir. 1993) (not to be cited as precedent under the 9th Circuit Rule 36-3). Moreover, the purpose of imposing sanctions "is to accomplish the remedial purposes of the Packers and Stockyards Act by deterring future

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[7] 7 C.F.R. § 1.136(c).

[8] *See supra* note 6 and accompanying text.

[9] Proposed Decision at 4-5; Motion for Default at 4.

[10] 7 U.S.C. § 213(b).

violations of the Packers and Stockyards Act by the violator and others."[11]

The Act provides that the Secretary of Agriculture may require reasonable bonds from every market agency, every packer, and "every other person operating as a dealer. . . to secure the performance of their obligations."[12] The Regulations further require every market agency, packer, and dealer to furnish a bond or bond equivalent on or before the date of commencement of operations.[13]

Complainant submits that Respondents committed "serious" violations of the Act and Regulations by failing to obtain and maintain the required bond.[14] Complainant explains that "[w]hen regulated entities fail to pay, or when the businesses fail, livestock farmers and producers may suffer large financial loss as a result, unless the protection of the required bond, in an appropriate amount to cover those losses, is in place."[15] Therefore, Complainant "considers the bonding provisions of the Act vital to the effective enforcement of the Act and for the protection of livestock producers."[16]

When making its sanction recommendation, Complainant states, the Packers and Stockyards Division "considered whether the [proposed] penalty . . . is reasonable and whether

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[11] *Syverson*, 69 Agric. Dec. 1500, 1509 (U.S.D.A. 2010) (Decision and Order on Remand), *aff'd sub nom. Syverson v. U.S. Dep't of Agric.*, 666 F.3d 1137 (8th Cir. 2012).

[12] 7 U.S.C. § 204.

[13] *See* 9 C.F.R. § 201.29(a) ("No market agency, packer, or dealer required to maintain a bond shall conduct his operations unless there is on file and in effect a bond complying with the regulations in this part.").

[14] Motion for Default at 3 (citing *Cobb*, 48 Agric. Dec. 234, 269 (U.S.D.A. 1989); *Robertson*, 47 Agric. Dec. 879, 884 (U.S.D.A. 1988)).

[15] Motion for Default at 3.

[16] *Id.* (citing *Travelers Indemnity Co. v. Manley Cattle Co.*, 553 F.2d 953, 945 (5th Cir. 1977); *Porter*, 47 Agric. Dec. 656, 670 (U.S.D.A. 1988)).

it could affect that Respondent's 'ability to stay in business.'"[17] Per Complainant's findings, Respondents "made livestock purchases in excess of $2.2 million" in 2024 "and bought and sold livestock on at least 175 calendar days."[18] Considering Respondents' size and "business volume," Complainant determined that a 180-day suspension is appropriate. I agree and find that, "given the gravity of the offense and the harm that operation without a bond poses to other members of the livestock industry," the proposed suspension is "appropriate in proportion to the violation."[19] This brief period of suspension, coupled with a cease-and-desist order, is necessary to deter Respondents and others from further violating the Act.

Having considered the required statutory factors, and in accordance with the Department's sanction policy,[20] I find Complainant's sanction recommendations to be reasonable and appropriate under the facts and circumstances of this case.

As Respondents failed to file an answer to the Complaint, and upon Complainant's motion for the issuance of a decision without hearing, 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 Ganaderos Unidos Mexicanos, LLC ("Respondent Ganaderos") is a limited liability corporation organized and existing under the laws of the State of Texas.
2. Respondent Ganaderos is, and at all times material herein, was:

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[17] Motion for Default at 3-4.

[18] *Id.* at 4.

[19] *Id.*

[20] *See S.S. Farms Linn Cnty., Inc.*, 50 Agric. Dec. 476, 497 (U.S.D.A. 1991) (Decision as to James Joseph Hickey & Shannon Hansen), *aff'd*, 991 F.2d 803 (9th Cir. 1993) (not to be cited as precedent under the 9th Circuit Rule 36-3)).

a. Engaged in the business of, and operating as, a dealer subject to the provisions of the Packers and Stockyards Act; and

b. Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce.

3. Respondent Fernando Ramirez ("Respondent Ramirez") is, and at all times material herein, was:

a. The owner of Ganaderos Unidos Mexicanos, LLC;

b. Engaged in the business of, and operating as, a dealer subject to the provisions of the Packers and Stockyards Act; and

c. Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce.

4. On December 15, 2020, the United States Department of Agriculture, Agricultural Marketing Service, Packers and Stockyards Division ("PSD") sent Respondents a letter informing Respondents that they must increase their bond instrument from $10,000 to $90,000 based on the volume of business Respondents reported in their annual report.

5. On January 19, 2021, PSD sent Respondents a Notice of Default Registration and Bonding. The Notice of Default informed Respondents that PSD had not received evidence of an increase in Respondents' bond instrument as required. The Notice of Default also informed Respondents that engaging in business in any capacity subject to the Packers and Stockyards Act without complying with the registration provisions of the Act and without filing an adequate bond is a violation of the Act and Regulations and could subject them to disciplinary action.

6. On April 26, 2021, Atlantic Specialty Insurance Company issued a Notice of Cancellation or Nonrenewal of Respondents' $10,000 bond effective June 1, 2021.
7. On July 8, 2021, PSD sent Respondents a second letter informing Respondents that they must increase their bond instrument from $10,000 to $90,000 based on the volume of business Respondents reported in their annual report.
8. August 12, 2021, PSD sent Respondents a second Notice of Default Registration and Bonding.
9. Respondents did not increase their bond instrument or obtain a new level of credit.
10. Notwithstanding the two Notice of Default letters, Respondents continued to engage in the business of a dealer between November 2021 and April 2022.

Conclusions of Law

1. The Secretary of Agriculture has jurisdiction in this matter.
2. By reason of the facts above, Respondents Ganaderos Unidos Mexicanos, LLC and Fernando Ramirez have willfully violated section 312(a) of the Packers and Stockyards Act (7 U.S.C. § 213(a)) and section 201.29(a) of the Regulations promulgated thereunder (9 C.F.R. § 201.29(a)).

ORDER

1. Complainant's Motion for Default is GRANTED.
2. Respondents Ganaderos Unidos Mexicanos, LLC and Fernando Ramirez shall cease and desist from engaging in operations subject to the Packers and Stockyards Act without being adequately bonded.
3. Respondents are suspended as registrants pursuant to 7 U.S.C. § 204 for 180 calendar days from the date this Order is issued.

4. Respondents are required to obtain an adequate bond.

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 31st day of March 2025,

CHANNING STROTHER
Digitally signed by CHANNING STROTHER
Date: 2025.03.31 11:31:26 -04'00'

Channing D. Strother
Chief Administrative Law Judge

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