REC'D - USDA/OALJ/HCO
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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:	
Heartland Exotic Bird and Animal Auction, LLC; and Justin Hamilton, Respondents.	P&S-D Docket No. 25-J-0059 P&S-D Docket No. 25-J-0060

DECISION AND ORDER WITHOUT HEARING BY REASON OF DEFAULT

Appearances:

Carla M. Notte, Esq., and Christopher Young, Esq., Office of the General Counsel, United States Department of Agriculture, Washington, DC, for the Complainant, the Acting Deputy Administrator, Packers and Stockyards 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.*) ("Regulations"); 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 Acting Deputy Administrator, Fair Trade Practices Program, Agricultural Marketing Service ("AMS"), United States Department of Agriculture ("Complainant"), initiated this proceeding by filing a complaint against Heartland Exotic Bird and Animal Auction, LLC and Justin Hamilton ("Respondents") on April 25, 2025. The Complaint alleged that Respondents willfully violated provisions of the Act and Regulations by issuing checks that were returned by the bank due to insufficient funds, failing to pay for livestock in conformity with the Act and Regulations, and failing to maintain a separate, designated custodial account for proceeds.[1] The

[1] *See* Complaint at 2-3.

Complaint requested:

1. That *unless Respondents fail to file an answer within the time allowed,* or file an answer admitting the material allegations of this complaint, this proceeding be set for oral hearing in accordance with the Rules of Practice; and

2. That such order or orders be issued:

   (a) Requiring Respondents to cease and desist from violating the Act and the regulations promulgated thereunder as stated, *inter alia*, in the complaint above;

   (b) Suspending Respondent's registration; and

   (c) Granting other relief as may be appropriate and warranted under the Act and in the circumstances of this case.[2]

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.[3]

On November 21, 2025, Complainant filed a motion for a decision without hearing by reason of default ("Motion for Default") and a 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 "reaffirms" the sanctions request set forth in its Complaint and specifically asks "that Respondents be required to cease and desist from violating the Act and be suspended as a registrant under the Act for a period of five (5) years or until livestock sellers owed are paid in full."[4]

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[2] *Id.* at 4 (emphasis added).

[3] United States Postal Service records reflect the Complaint was sent to Respondents via certified mail and delivered on May 21, 2025. 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 June 10, 2025. Respondents have not filed an answer.

[4] Motion for Default at 3.

Respondents have not filed any objections to Complainant's Motion for Default or Proposed Decision.[5]

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 the Complaint, unless the parties have agreed to a consent decision.[6] Other than a consent decision, the Rules of Practice do not provide for exceptions to the regulatory consequences of failing to file an answer where, as in the present case, no meritorious objections have been filed.[7]

Sanctions

As previously stated, Complainant seeks an order directing Respondents to cease and desist from violating the Act and suspending Respondents as a registrant under the Act for a period of five years or until livestock sellers owed are paid in full.[8] The Act provides for both of these sanctions: 7 U.S.C. § 193(b) authorizes the Secretary to issue cease-and-desist orders,[9] and 7 U.S.C. § 204 authorizes the Secretary to suspend registrants for a reasonable period if they are insolvent or have violated the Act.[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

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[5] United States Postal Service records reflect that the Motion for Default and Proposed Decision were sent to Respondents via certified mail and delivered on March 16, 2026. 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 April 6, 2026. Respondents have not filed any objections.

[6] 7 C.F.R. § 1.136(c).

[7] *See supra* note 5 and accompanying text.

[8] *See supra* note 4 and accompanying text.

[9] 7 U.S.C. § 193(b).

[10] 7 U.S.C. § 204.

> 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.[11]

The purpose of imposing sanctions "is to accomplish the remedial purposes of the Packers and Stockyards Act by deterring future violations of the Packers and Stockyards Act by the violator and others."[12]

Complainant submits that "by issuing checks returned by the bank due to insufficient funds, failing to pay net proceeds due from the sale of livestock, and failing to maintain a separate, designated Custodial Account for sale proceeds," Respondents "have committed serious violations" of the Act and Regulations.[13] Complainant further states:

> [B]ecause Respondents' continued operations and violations of the Act pose a threat to the livestock industry, a cease and desist order and a suspension of registration are required to effectuate the Secretary's policies of deterrence and are consistent with the remedial purposes of the Act. . . . To date, upon information and belief, Respondents have yet to pay the proceeds due to the livestock sellers as indicated above and in the Complaint. Considering this and the seriousness of the violations, Complainant requests that the suspension last for a period of five (5) years or until Respondents pay livestock sellers in full.[14]

I agree with Complainant's observations. Having considered the serious nature of Respondents' violations and the remedial purposes of the Act, I find Complainant's sanctions recommendation to be reasonable and appropriate under the facts and circumstances of this case.[15]

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[11] *S.S. Farms Linn Cnty., Inc.,* 50 Agric. Dec. 476, 497 (U.S.D.A. Jud. Officer 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 9th Cir. R. 36-3).

[12] *Syverson*, 69 Agric. Dec. 1500, 1509 (U.S.D.A. Jud. Officer 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).

[13] Motion for Default at 4.

[14] *Id.*

[15] *See Marysville Enters., Inc.*, 59 Agric. Dec. 299, 2000 WL 123137, at *15 (U.S.D.A. Jud. Officer Jan. 4, 2000) ("[A] 5-year suspension of Respondents as registrants under the Packers

As Respondent 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. Heartland Exotic Bird and Animal Auction, LLC ("Respondent Heartland, LLC") was a limited liability company organized and existing under the laws of the State of Nebraska, which was dissolved by the State of Nebraska on or about June 15, 2021. Its business mailing address is or was 403 Ash Street, Hayes Center, NE 69032.
2. At all times material herein, Respondent Heartland, LLC was:
    a. Wholly owned by Justin Hamilton;
    b. Engaged in the business of, and operating as, a market agency selling livestock in commerce on a commission basis as that term is defined and used in the Act and the Regulations promulgated thereunder; and
    c. Registered with the Secretary of Agriculture as a market agency to sell livestock in commerce on a commission basis.

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and Stockyards Act is necessary to deter Respondents and other similarly situated persons from future violations of 7 U.S.C. §§ 213(a) and 228b. A 5-year-suspension . . . is in accord with the USDA's sanction policy, the sanction recommendation of the administrative officials charged with achieving the congressional purpose of the Packers and Stockyards Act, and the periods of suspension imposed in similar cases."); *see also Tiemann*, 47 Agric. Dec. 1573, 1579 (U.S.D.A. Jud. Officer 1988) ("The effect on a livestock market when a dealer fails to pay for livestock, or issues checks in payment for livestock which are returned unpaid because of insufficient funds, causes serious problems for those in the livestock trade."); *George Cnty. Stockyard, Inc.*, 45 Agric. Dec. 2342, 2351 (U.S.D.A. Jud. Officer 1986) ("Custodial account violations have long been recognized as serious violations of the Packers and Stockyards Act.") (citing *Roseth v. Bergland*, 636 F.2d 1224 (8th Cir. 1980); *Miller v. Butz*, 498 F.2d 1088, 1089 (5th Cir. 1974); *Hyatt & Ward v. United States*, 276 F.2d 308, 310-13 (10th Cir. 1960); *United States v. Donahue Bros., Inc.*, 59 F.2d 1019, 1020-23 (8th Cir. 1932)); *Bowman v. U.S. Dep't of Agric.*, 363 F.2d 81, 85 (5th Cir. 1966) ("With respect to the other business practices which were held to violate the Act, the custodial account departures are the most serious.").

3. Justin Hamilton ("Respondent Hamilton") is an individual whose current address is in the State of Nebraska.
4. At all times material herein, Respondent Hamilton was:
    a. One-hundred percent owner of Respondent Heartland, LLC;
    b. Engaged in the business of a market agency selling on commission as that term is defined and used in the Act and Regulations promulgated thereunder; and
    c. Responsible for the day-to-day operations, direction, management, and control of Respondent Heartland, LLC.
5. Respondents, in connection with its operations subject to the Act, on or about October 8, 2023, sold livestock in a commission basis and in purported payment of the net proceeds thereof, issued checks to two consignors of such livestock which were returned unpaid by the bank upon which they were drawn because Respondents had insufficient funds to pay for those checks.
6. Respondents, in connection with their operations subject to the Act, on or about October 8, 2023 and in the transactions set forth in Paragraph No. 5 above, failed to remit when due the net proceeds from the sale of such livestock on a commission basis. Upon information and belief, to date, Respondents failed to pay the proceeds due in those transactions.
7. Respondents, in connection with its operations subject to the Act, failed to maintain a separate, designated Custodial Account of Market Agency for handling proceeds of livestock sales as required under section 201.42 of the Regulations (9 C.F.R. § 201.42).

Conclusions of Law

1. The Secretary of Agriculture has jurisdiction in this matter.

2. By reason of the facts above, Respondents Heartland Exotic Bird and Animal Auction, LLC and Justin Hamilton have willfully violated sections 307, 312(a), and 409 of the Packers and Stockyards Act (7 U.S.C. §§ 208, 213(a), 228b) and section 201.42 of the Regulations (9 C.F.R. § 201.42).

ORDER

1. Complainant's Motion for Default is GRANTED.
2. Respondents and Respondents' agents, employees, successors, and assigns, directly or indirectly through any corporate or other device, in connection with Respondents' activities subject to the Packers and Stockyards Act, shall cease and desist from:
    a. Issuing checks in payment for livestock sales without sufficient funds to pay for those checks; and
    b. Failing to pay when due for every livestock transaction and sale from sellers of livestock.
3. Respondents are suspended as a registrant from all operations as a market agency for a period of five (5) years or until the livestock sellers owed are paid in full. If all livestock sellers subject to the Complaint have been paid in full, Respondents may petition the Packers and Stockyards Division to resume activities as a market agency as defined by the Act. The Packers and Stockyards Division has sole discretion to determine whether such debts have been paid.

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 9th day of April 2026,

Tierney Carlos

Tierney Carlos
Administrative Law Judge

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