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

In re: Thomas Lee Tracy, d/b/a Twisted T. Livestock, LLC Respondent.	P&S-D Docket No. 25-J-0033

DECISION AND ORDER WITHOUT HEARING BY REASON OF DEFAULT

Appearances:

Michelle McMurtray, 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 disciplinary proceeding under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq*.) ("P&S Act"); the regulations promulgated thereunder (9 C.F.R. § 201.1-201.200) ("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"). This proceeding was initiated by Complaint filed on February 6, 2025, by the Deputy Administrator of the Agricultural Marketing Service's Fair Trade Practices Program, Packers and Stockyards Division ("PSD"), against Respondent Thomas Lee Tracy doing business as Twisted T. Livestock & Trucking. The Complaint alleged that Respondent, while engaging in the business of a dealer and market agency, failed to pay the full purchase price of livestock; failed to pay, when due, the full purchase price of livestock; and issued "insufficient funds checks" without sufficient money in his bank account to pay for such checks.

By reason of these allegations, the Complaint alleged that Respondent willfully violated section 312 of P&S Act (7 U.S.C. § 213), section 409 of P&S Act (7 U.S.C. § 228b) and the

Regulations thereunder. The Complaint requests, *inter alia*, that an order be issued requiring Respondent to cease and desist from violating the P&S Act and regulations with respect to the matters alleged herein, and suspending Respondent's registration for a specific period.

Respondent was duly served with a copy of the Complaint and did not file an answer within the twenty (20) day period as prescribed by section 1.136 of the Rules of Practice (7 C.F.R. § 1.136).[1]

On January 27, 2026, I issued an Order to Show Cause Why Default Should not be Entered ("Order to Show Cause"), directing the parties to respond by March 13, 2026. Respondent timely responded to the Order to Show Cause via email to the Hearing Clerk's Office on March 13, 2026, stating: "Response: I have no idea what this suite or order is about… this is the first time seeing this suite or order was when this delivered to me in 03/04-05 2026…. That's probably why I haven't answered or gave a response back…."

Complainant filed a Motion for A Decision Without Hearing By Reason of Default ("Motion for Default") and [Proposed] Decision and Order Without Hearing by Reason of Default ("Proposed Decision") on March 19, 2026.

Due to Respondent's response to the Order to Show Cause and to ensure Respondent received the Complaint, the Hearing Clerk's Office re-served, by certified mail, a package

[1] United States Postal Service ("USPS") records reflect the Complaint was sent to Respondent via certified mail. USPS records indicate that a notice was left at Respondent's address. The package was returned to the Hearing Clerk as unclaimed with a return delivery date to the Hearing Clerk's Office of April 7, 2025. Pursuant to 7 C.F.R. § 1.147(c)(1), the Hearing Clerk remailed by ordinary mail the Complaint on July 23, 2025.Per 7 C.F.R. § 1.147(c)(1), the complaint is to be considered served as of the date of the remailing. Respondent had twenty (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, Respondent's answer was due on or before August 12, 2025. Respondent did not file an answer.

containing the Complaint, Hearing Clerk's Letter, and a copy of the Rules of Practice, which was delivered on June 2, 2022.[2] Therefore, Respondent was provided an additional opportunity for service of the Complaint and to file an answer. Respondent has neither filed an answer nor filed a response to Complainant's Motion for Default and Proposed Decision.

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.[3] 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.

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. The Act provides for both of these sanctions: 7 U.S.C. § 193(b) authorizes the Secretary to issue cease-and-desist orders,[4] 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.

Regarding 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,

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[2] USPS records indicate that the mailing was delivered to Respondent's address on June 2, 2026. As previously noted, Respondent had twenty (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, Respondent's answer was due on or before June 22, 2026. Respondent has not filed an answer.

[3] 7 C.F.R. § 1.136(c).

[4] 7 U.S.C. § 193(b).

> 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.[5]

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."[6]

Complainant submits, at 4, that

> Respondent has committed serious and willful violations of section 312 of the Act (7 U.S.C. § 213), section 409 of the Act (7 U.S.C. §228b), and the regulations promulgated thereunder by failing to pay, when due, sellers for livestock purchases, and issuing checks with insufficient funds. PSD has considered the gravity of Respondent's violations in this case, as well as the prior Notice of Violation letter regarding like allegations, sent to Respondent on June 1, 2021. Based on its findings and in consideration of the violations and the gravity of Respondent's repeated violation of the Act is significant in nature, PSD finds its recommended sanctions are reasonable and necessary to effectuate the Secretary's policies of deterrence.

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.[7]

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[5] *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).

[6] *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).

[7] *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 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

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. Thomas Lee Tracy, doing business as Twisted T. Livestock, LLC (Respondent), is an individual with a business mailing address that is a personal address located in the Commonwealth of Kentucky.
2. Respondent is, and at all times material herein, was:
    a. Engaged in the business of a dealer buying livestock in commerce, and a market agency buying livestock on a commission basis; and
    b. Registered with the Secretary of Agriculture as a dealer to buy and sell livestock for his own account and as a market agency buying livestock on a commission basis.
3. On November 20, 2021, Respondent purchased 35 head of livestock at Farmer's Stockyards, for a total purchase price of $7,954.90. Respondent issued a check for the full purchase price on the same day. On December 1, 2021, Respondent's check was returned for insufficient funds. On December 2, 2021, the check was honored upon resubmission. The payment to Farmer's Stockyards was ten (10) days late.

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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.").

4. On November 27, 2021, Respondent purchased 41 head of livestock at Farmer's Stockyards for a total price of $11,709.75. Respondent issued a check for the purchase price on the same day. On December 2 and 7, 2021, Respondent's check was returned for insufficient funds. On December 24, 2021, Respondent replaced the check with a wire payment to Farmer's Stockyards. The total amount of the wire payment was $10,500.00, leaving a balance of $1,209.75 owed to Farmer's Stockyards for the November 27, 2021, transaction.
5. On December 4, 2021, Respondent purchased a total of 67 head of livestock from Farmer's Stockyards for a total purchase price of $16,190.00. Respondent issued a check to Farmer's Stockyards on December 4, 2021, which was returned on December 13 and 15, 2021. On December 22, 2021, Farmer's Stockyard's filed a bond claim for the outstanding balances of purchases Respondent made on November 27 and December 4, 2021.
6. On March 11, 2022, CAN Surety issued a $10,000.00 bond payment to Farmer's Stockyards. The bond payment fully covered the remaining $1,209.75 balance from the November 27, 2021, transaction, making the payment 102 days late. The bond payment also partially covered the balance of the invoice for the December 4, 2021, transaction.

Conclusions of Law

1. The Secretary of Agriculture has jurisdiction in this matter.
2. By reason of the facts above, Respondent willfully violated sections 312 and 409 of the Act (7 U.S.C. §§ 213(a) and 228b) by failing to pay and failing to pay when due, the full purchase price of livestock, and by issuing insufficient funds checks in payment for livestock.

ORDER

1. Complainant's Motion for Default is GRANTED.
2. Respondent Thomas Lee Tracy, doing business as Twisted T. Livestock, LLC., and Respondent's agents, employees, successors, and assigns, directly or indirectly or through any corporate or other device, in connection with Respondent's activities subject to the Act, shall cease and desist from:
    a. Issuing checks in payment for the livestock purchases which checks are returned unpaid by the bank upon which they are drawn because Respondent does not have and maintain sufficient funds on deposit and available in the account upon which such checks are drawn to pay such checks when presented;
    b. failing to pay, when due, the full purchase price of livestock; and
    c. failing to pay the full purchase price of livestock.
3. Respondent's registration under the Act is suspended for a period of five (5) years, or until all unpaid livestock sellers listed in the Complaint have been paid in full, from the date of this Decision and Order. Such suspension shall end if Respondent submits proof to the Packers and Stockyards Division that the livestock sellers have been paid in full.

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 24th day of June 2026,

Tierney Carlos

Tierney Carlos
Administrative Law Judge

Hearing Clerk's Office
United States Department of Agriculture
Stop 9203, South Building, Room 1031
1400 Independence Avenue, SW
Washington, DC 20250-9203
Tel: 202-720-4443
Fax: 844-325-6940
SM.OHA.HearingClerks@USDA.GOV