

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 13-0180

In re: Derek W. Crites,
d/b/a DC Farms and
Wayne H. Crites

Respondents

Default Decision and Order

Preliminary Statement

This disciplinary proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*), by a complaint and notice of hearing filed on February 15, 2013, by Susan B. Keith, the Acting Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that Respondents Derek W. Crites, d/b/a DC Farms and Wayne H. Crites willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 *et seq.*).

Copies of the Complaint and 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 upon each of the Respondents by certified mail on February 23, 2013. Respondents were informed in the complaint and 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 and a waiver of hearing.

Respondents failed to file an Answer and are deemed to have admitted the material facts alleged in the complaint and waived their right to a hearing. Accordingly, the following Findings of Fact, Conclusions of Law and Order will be entered pursuant to section 1.139 of the rules of practice applicable to this proceeding (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent Derek W. Crites is an individual doing business as DC Farms with a mailing address in Moorefield, West Virginia.
2. Respondent Wayne H. Crites is an individual with a mailing address in Moorefield, West Virginia.
3. Derek W. Crites, doing business as DC Farms, at all times material herein, was:
 - (a) Engaged in the business of buying and selling livestock in commerce as a dealer for his own account and the account of others; and
 - (b) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce.
4. Wayne H. Crites, at all times material herein, was:
 - (a) Engaged in the business of buying and selling livestock in commerce as a dealer for his own account and the account of others;
 - (b) Not registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for his own account and the account of others;
 - (c) Operating as a dealer within the jurisdiction of the Act; and
 - (d) Responsible for the day to day management, direction, and control of DC Farms.

5. By Decision entered on June 6, 2000, Respondent Wayne H. Crites was suspended as a registrant under the Act. *In re: Wayne H. Crites*, 59 Agric. Dec. 333 (2000). The Decision required Respondent Wayne H. Crites, his agents and employees, directly or through any corporate or other device, in connection with the operations of the Act, to cease and desist from failing to pay the full amount of the purchase price for livestock within the time period required by the Act. No Order has subsequently been issued modifying or terminating the suspension.

6. Notwithstanding the above decision, on the seven dates between November 3, 2010 and December 15, 2010 and in the eight transactions set forth in Paragraph III of the Complaint, incorporated herein by reference, Respondents purchased and failed to pay when due, the full purchase price of such livestock.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. Respondents Derek W. Crites, d/b/a DC Farms and Wayne H. Crites willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a) and 228b).

Order

1. Respondents Derek W. Crites, d/b/a DC Farms and Wayne H. Crites, their agents and employees, directly or through any corporate or other device, shall cease and desist from failing to pay, when due, the full amount of the purchase price for livestock.
2. Respondents are hereby assessed, jointly and severally, a civil penalty in the amount of fifteen thousand dollars (\$15,000.00). Respondents shall send a certified check or money order for fifteen thousand dollars (\$15,000.00), payable to the Treasurer of the United States and sent U.S. Department of Agriculture, to USDA GIPSA, P. O. Box 790335, St. Louis, Missouri

63179-0335. Respondents shall indicate on the certified check or money order that payment is in reference to Docket No. 13-0180.

3. This decision shall become final and effective without further proceedings 35 days after the date of service upon respondents, unless it is appealed to the Judicial Officer by a party to the proceeding within 30 days pursuant to Section 1.145 of the rules of practice (7 C.F.R § 1.145).

Copies of this decision shall be served upon the parties.

November 7, 2013

Peter M. Davenport

Peter M. Davenport
Chief Administrative Law Judge