

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: ) P & S Docket No. D-12-0084  
)  
Hardee County Livestock Market Corp., )  
and Janice P. Wheeler )  
)  
Respondents ) Complaint

There is reason to believe that the Respondents named herein have willfully violated the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.) (Act) and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.) (Regulations), and, therefore, this complaint is issued alleging the following:

I.

(a) Hardee County Livestock Market Corp. (Respondent Hardee) is a corporation organized and existing under the laws of the State of Florida. Its current mailing address is P.O. Box 1479, Wauchula, FL 33873.

(b) At all times material herein, Respondent Hardee was:

(1) Engaged in the business of a market agency selling livestock in commerce on a commission basis; and

(2) Registered with the Secretary of Agriculture as a market agency to sell livestock in commerce on a commission basis.

(c) Janice P. Wheeler (Respondent Wheeler) is an individual whose current mailing address is P.O. Box 1479, Wauchula, FL 33873.

- (d) At all times material herein, Respondent Wheeler was:
- (1) President of Respondent Hardee;
  - (2) Fifty percent owner of Respondent Hardee;
  - (3) Registered agent of Respondent Hardee;
  - (4) General Manager of Respondent Hardee; and
  - (5) Responsible for the direction, management, and control of Respondent Hardee.

II.

(a) On March 17, 2011, Respondents submitted to the Eastern Regional Office of the Packers and Stockyards (P&S) Program an application for registration for Respondent Hardee for registration as a market agency selling on commission. Respondent Wheeler signed the application for registration. On April 11, 2011, Respondents submitted to the Eastern Regional Office a trust agreement and an irrevocable, transferable, standby letter of credit in the amount of \$100,000.00 for Respondent Hardee. The trust agreement listed The Muncy Bank & Trust Company as the trustee and contained the signatures of Krista Dyer, the branch manager of The Muncy Bank & Trust Company, and of Respondent Wheeler. The standby letter of credit indicated that the funds were drawn on the Wauchula State Bank and contained the signature of Kate Randall, the senior vice president of the bank.

(b) On April 20, 2011, the Eastern Regional Office of the P&S Program sent a letter to Respondents informing them that the application for registration had been accepted and became effective on April 18, 2011. The letter further informed Respondents that they must conduct their operations at all times in accordance with the Act and the Regulations. On the same day, the Eastern Regional Office sent a separate letter to Respondents advising them that

identification number FL-235 had been assigned to their trust agreement. The Eastern Regional Office also sent a third letter on the same day to Krista Dyer, branch manager of The Muncy Bank & Trust Company, informing her of the company's responsibilities as the trustee for Respondents' letter of credit.

(c) On May 4, 2011, the Eastern Regional Office of the P&S Program received a letter dated May 3, 2011, from David Mayer, senior vice president of The Muncy Bank & Trust Company, informing it that The Muncy Bank & Trust Company had no knowledge of a relationship nor had a relationship of any kind with Respondent Hardee. Mr. Mayer further informed the Eastern Regional Office that the signatures of Krista Dyer and Kate Randall on the trust agreement and standby letter of credit, respectively, were forged.

(d) On May 5, 2011, a P&S Program resident agent arrived at Respondent Hardee's place of business and confronted Respondent Wheeler on the allegations of forgery of the trust agreement and standby letter of credit. Respondent Wheeler verbally admitted to the resident agent that she had forged the documents. Respondent Wheeler also typed and signed a sworn affidavit dated May 5, 2011, wherein she admitted that she had forged the trust agreement and the standby letter of credit. A copy of the affidavit is attached hereto and incorporated by reference as Appendix A.

(e) Prior to leaving Respondent Hardee's place of business, the P&S Program resident agent personally served a letter from the Eastern Regional Office of the P&S Program dated May 4, 2011, on Respondent Wheeler. The letter informed Respondents that the Eastern Regional Office had been notified that the trust agreement and standby letter of credit that had been submitted for Respondent Hardee were fraudulently issued and therefore, the bond coverage on file to cover Respondent Hardee's market agency activities was invalid. The letter

referenced section 10 of the Federal Trade Commission Act (15 U.S.C. § 50) as incorporated into the Act by 7 U.S.C. § 222, section 312(a) of the Act (7 U.S.C. § 213(a)), and sections 201.29 and 201.30 of the Regulations (9 C.F.R. §§ 201.29-201.30) and informed Respondents that the Act prohibited market agencies, packers, and dealers from operating without the required bond or bond equivalent. Respondents were further informed that they must discontinue operations subject to the Act until valid bond coverage was received.

(f) Due to Respondent Wheeler's filing of forged bond equivalent documents with the Eastern Regional Office of the P&S Program, Complainant requested the Department of Justice to institute criminal proceedings against Respondent Wheeler. On September 28, 2011, Respondent Wheeler was indicted in the United States District Court, Middle District of Florida, Tampa Division, for knowingly and willingly making and using false writings and documents containing materially false statements and entries in relation to a matter within the jurisdiction of the United States Department of Agriculture in violation of 18 U.S.C. § 1001.<sup>1</sup> A copy of the Indictment is attached hereto and incorporated by reference as Appendix B.

### III.

Respondent Hardee, under the direction, management, and control of Respondent Wheeler, commencing on or about April 4, 2011, and continuing through May 2, 2011, in 5 transactions, engaged in the business of a market agency selling livestock in commerce on a

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<sup>1</sup> Section 1001 of Title 18 of the United States Code states, inter alia, that

(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully--

(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;  
(2) makes any materially false, fictitious, or fraudulent statement or representation; or  
(3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;

shall be fined under this title, imprisoned not more than 5 years . . . .

18 U.S.C. § 1001.

commission basis, by selling 383 head of livestock, in the approximate total gross sale amount of \$182,800.00, without maintaining an adequate bond or bond equivalent. Respondent Hardee received a total gross selling commission for these sales of approximately \$5,800.00.

IV.

By reason of the facts alleged in paragraph I, Respondent Hardee is the alter ego of Respondent Wheeler.

By reason of the facts alleged in paragraphs II and III, Respondents have willfully violated section 312(a) of the Act (7 U.S.C. § 213(a)), and sections 201.29 and 201.30 of the Regulations (9 C.F.R. §§ 201.29, 201.30).

WHEREFORE, it is hereby ordered that this complaint shall be served upon Respondents for the purpose of determining whether Respondents have willfully violated the Act and the Regulations. Respondents shall have twenty (20) days after receipt of this complaint in which to file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, DC 20250, in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 et seq.) (Rules of Practice). Allegations not answered shall be deemed admitted for the purpose of this proceeding. Failure to file an answer will constitute an admission of all the material allegations of this complaint.

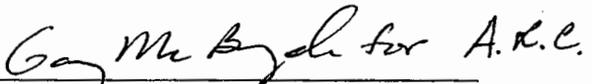
The Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), requests:

1. That unless Respondents fail to file an answer within the time allowed, or file an answer admitting all 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, including an order requiring Respondents to cease and desist from the violations of the Act and the Regulations found to exist, suspending Respondents as registrants under the Act, and assessing such civil penalties against Respondents, jointly and severally, as are authorized by the Act and warranted in the circumstances.

Done at Washington, D.C.

this 25 day of November, 2011



Alan R. Christian  
Deputy Administrator  
Packers and Stockyards Program

Leah C. Battaglioli  
Attorney for Complainant  
Office of the General Counsel  
United States Department of Agriculture  
Room 2309, Stop 1413  
1400 Independence Avenue, SW.  
Washington, DC 20250-1413  
(202) 720-5191

APPENDIX A

FORM P&SP-323  
SEP 2000

United States Department of Agriculture  
GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION

AFFIDAVIT

FOR USE IN ANY PROCEEDING OR ACTION  
UNDER THE PACKERS AND STOCKYARDS ACT, 1921,  
AS AMENDED AND SUPPLEMENTED (7 U.S.C. 181 et seq.)



STATE OF Florida )  
COUNTY OF Wauchula )

SS:

BEFORE ME, Nilsa Ramos Taylor

an employee of the United States Department of Agriculture, designated by the Secretary of  
Agriculture under authority of the Act of January 31, 1925, 43 Stat. 803, 7 U.S.C. 2217,  
personally appeared

Janice P. Wheeler  
(NAME)

1201 S. G<sup>th</sup> Ave Wauchula, FL 33873  
(HOME ADDRESS)

Hardee County Livestock Market, Corp  
(FIRM)

1201 S. G<sup>th</sup> Ave, Wauchula, FL 33873  
(FIRM ADDRESS)

who deposes and says:

May 5<sup>th</sup>, 2010

To Whom It May Concern,

My name is Janice P Wheeler. I was General Manager and Vice-President of Hardee Livestock Market, Inc. which previously ran the auction. I am now General Manager and President of Hardee County Livestock Market, Corp. which is operating in Wauchula, Florida.

First, let me say that I take full responsibility for my actions. No one else knew what I was doing or had any idea of what I had done.

Back in December, 2010, I was told to shut down Hardee Livestock Market, Inc. as an auction. Our last sale was December 13<sup>th</sup>. In late February, some local ranchers came to me and we discussed setting up a new corporation and leasing the market with the intention of reopening it as an auction.

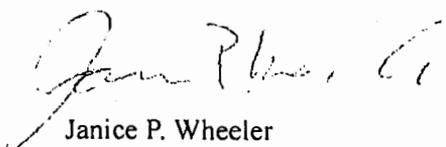
After much discussion with area cattle owners and business people, we decided to try it. I spent the next month setting up a new corporation and selling shares to interested parties. During this time, I talked to the director of our Economic Development Office, Mr. Bill Lambert, about getting some financial assistance. He was extremely helpful since our closing lost about 25 local jobs. Mr. Lambert suggested I come make a presentation to the IDA, Industrial Development Agency, and they would possibly advance us the money needed to secure our line of credit (\$100,000).

I went to the meeting March 14<sup>th</sup> and asked for their help. The Board asked a few questions and agreed to loan us \$100,000 when we had raised the \$300,000 from sale of shares, and could get someone to "sign off on the loan".

I went back to selling shares and doing all the legwork for the new corporation including the paperwork with Packer and Stockyards for the new registration, etc. As the time grew closer for the opening scheduled for April 4<sup>th</sup>, I had almost everything ready, except I couldn't get all the money raised yet for the loan. I am ashamed to admit that I panicked, and at the very end, I forged the documents for the line of credit based on our old paperwork. Muncy Bank was on our old line as Hardee Livestock Market, Inc., so I used it. There is no excuse for what I did, I knew it was wrong when I did it, but I didn't know what else to do. I didn't want to let everybody down. I felt like I had so many people depending on me that I made a huge mistake. I thought that I could get the real CD and line of credit set up and replace it. I felt so bad misleading Jill Ainsworth who had been very helpful and easy to work with during all of this, but I was hoping she and Nilsa Ramos Taylor, my regular agent, would not have to find out.

I know what I did was wrong, and there's no excuse for it, but this market is my whole life and everything I have spent years working for, and I apologize from the bottom of my heart. I know I've made a huge mess of things. I throw myself on your mercy and beg your forgiveness. I wish there was a simple explanation, but I made the wrong choices in desperation.

I am typing this statement of my own free will and using my own words. I am giving this to Nilsa and hoping and praying for a level of leniency.

  
Janice P. Wheeler  
PO Box 1327  
Wauchula, FL 33873

PAGE 2 OF 3  
25

Page 2

This statement consists of 3 pages of which this is page 3. I have read the foregoing statement and it is true and correct. I give such statement freely and voluntarily, without threats or promises having been made, knowing that it may be used in the administration of the Packers and Stockyards Act, 1921, as amended, and the regulations thereunder.

Jain P. [Signature]  
(SIGNED)

SUBSCRIBED AND SWORN TO before me at Wauchula,  
Florida, on this 5th  
day of May, 20 11.

[Signature]  
Employee of the United States Department of Agriculture,  
designated pursuant to law to administer oaths,  
Authorization No. 197

WITNESS:

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APPENDIX B

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 8:11-cr-500-T-23TGW  
18 U.S.C. § 1001

JANICE P. WHEELER

INDICTMENT

The Grand Jury charges:

COUNT ONE

A. Introduction

At times material to this Indictment:

1. The United States Department of Agriculture was an executive department of the United States.
2. The Packers and Stockyards Act was enacted by Congress with the primary purpose to assure fair competition and trade practices in the livestock marketing and meat packing industry.
3. The Grain Inspection, Packers and Stockyards Administration ("GIPSA") was an agency within the United States Department of Agriculture that was responsible for enforcing the Packers and Stockyards Act.

11 SEP 28 PM 12:42  
U.S. DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA, FLORIDA

4. On or about April 11, 2011, within the Middle District of Florida,

JANICE P. WHEELER,

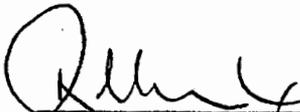
the defendant herein, did knowingly and willfully make and use false writings and documents containing materially false statements and entries, in relation to a matter within the jurisdiction of a department of the executive branch of the United States, that is, the United States Department of Agriculture, in connection with an application to register as a market agency: specifically, the defendant submitted bond equivalent documents to GIPSA in the form of a false and fraudulent trust agreement and a false and fraudulent irrevocable, transferrable, standby letter of credit in the amount of \$100,000.

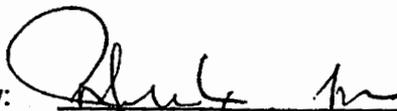
In violation of Title 18, United States Code, Section 1001.

A TRUE BILL,

  
Foreperson

ROBERT E. O'NEILL  
United States Attorney

By:   
ROBERT T. MONK  
Assistant United States Attorney

By:   
ROBERT A. MOSAKOWSKI  
Assistant United States Attorney  
Chief, Economic Crimes Section

**UNITED STATES DISTRICT COURT**

Middle District of Florida  
Tampa Division

**THE UNITED STATES OF AMERICA**

vs.

**JANICE P. WHEELER**

**INDICTMENT**

Violations:

Title 18, United States Code, Section 1001

A true bill,

*John H. McCarroll*  
Foreperson

Filed in open court this 28<sup>th</sup> day

of September, 2011.

\_\_\_\_\_  
Clerk

Bail \$ \_\_\_\_\_

GPO 863 525

11 SEP 28 PM 12:42

U.S. DISTRICT COURT  
TAMPA, FLORIDA

FILED

PAGE 3 OF 3