

(2) The individual who managed, directed, and controlled the daily operations of the Corporate Respondent;

(3) A market agency selling livestock in commerce on a commission basis;
and

(4) Not individually registered with the Secretary of Agriculture in any capacity under the Act.

II

(a) The Corporate Respondent, under the direction, management, and control of the Individual Respondent, failed to maintain and use properly its custodial account for shippers' proceeds endangering the faithful and prompt accounting therefor and the payment of portions thereof due the owners and consignors of livestock, in that:

(1) As of May 21, 2008, the Corporate Respondent had outstanding checks drawn on the custodial account in the amount of \$529,618.95, and had to offset those checks a balance in the custodial account in the amount of \$267,059.24, and proceeds receivable in the amount of \$95,997.11, resulting in a deficiency of \$166,562.60 in funds available to pay shippers their proceeds; and

(2) As of July 31, 2008, the Corporate Respondent had outstanding checks drawn on the custodial account in the amount of \$214,547.89, and had to offset those checks a balance in the custodial account in the amount of \$1,000.00, and proceeds receivable in the amount of \$107,451.75, resulting in a deficiency of \$106,096.14 in funds available to pay shippers their proceeds.

(b) Such deficiencies were due, in part, to failures to deposit in the custodial account

for shippers' proceeds within the time prescribed by the regulations, an amount equal to the proceeds receivable from the sale of livestock consigned to the market on a commission basis.

(c) Respondents failed to maintain and use properly the custodial account on and about the dates set forth above despite having been placed on notice by a certified mail letter dated September 7, 2007, that operating with a shortage in the custodial account is in violation of section 312(a) of the Act (7 U.S.C. § 213(a)) and section 201.42(c) of the regulations.

III

By reason of the facts alleged in paragraph II herein, Respondents have wilfully violated section 312(a) of the Act (7 U.S.C. § 213(a)) and section 201.42 of the regulations (9 C.F.R. § 201.42).

By reason of the facts alleged in paragraphs I through II herein, the Individual Respondent was the alter ego of the Corporate Respondent at the time of the violations.

WHEREFORE, it is hereby ordered for the purpose of determining whether Respondents have in fact violated the Act and the regulations issued thereunder, this Complaint shall be served upon Respondents. Respondents shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq.) Failure to file an answer shall constitute an admission of all the material allegations of this Complaint.

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

1. That unless Respondents fail to file an answer within the time allowed therefor, 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 governing proceedings under the Act; and

2. That such order or orders be issued, including orders requiring Respondents to cease and desist from violating the Act with respect to the matters alleged herein, suspending the Corporate Respondent as a registrant under the Act, and the Individual Respondent as its alter ego, and assessing such civil penalties, as are authorized by the Act and warranted in the premises.

Done at Washington, D.C.

this 30 day of June, 2009



ALAN R. CHRISTIAN
Deputy Administrator
Packers and Stockyards Program



ERIC PAUL
Attorney for Complainant
Telephone (202) 720-2460