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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	P & S Docket No. 09-0160
)	
Allen County Livestock Auction,)	
LLC, John Adams, and Dale)	
Peterson)	
)	
Respondents)	Complaint

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

I.

(a) Allen County Livestock Auction, LLC, ("Allen County Livestock"), P.O. Box 130, Gas, Kansas 66742, is a Kansas limited liability company with a mailing address of P.O. Box 130, Gas, Kansas 66742. The limited liability company's registered agent in Kansas is: John Adams, P.O. Box 130, Gas, Kansas 66742. Respondent Allen County Livestock was formerly registered with the Secretary of State of Kansas as Adams & Peterson, LLC.

(b) At all times material to the allegations herein, Respondent Allen County Livestock managed and operated a livestock auction market located at 315 South Main, Gas, Kansas, and was:

1. Engaged in the business of conducting and operating a posted stockyard subject to the provisions of the Act;
2. Engaged in the business of a market agency selling consigned cattle, horses, and mules in commerce on a commission basis; and
3. Registered with the Secretary of Agriculture as a market agency to sell livestock in commerce on a commission basis.

(c) John Adams is an individual whose mailing address is 1291 2200 Street, Iola, Kansas 66749.

(d) At all times material to the allegations herein, John Adams was:

1. A partner and 50 percent owner of Respondent Allen County Livestock;
2. Responsible for the day-to-day direction, management and control of Respondent Allen County Livestock; and
3. A market agency within the meaning of and subject to the provisions of the Act.

(e) Dale Peterson is an individual whose mailing address is 1655 Yarrow Road, Marion, Kansas 66861.

(f) At all times material to the allegations herein, Dale Peterson was:

1. A partner and 50 percent owner of Defendant Allen County Livestock;
2. Responsible for the day-to-day direction, management and control of Respondent Allen County Livestock; and
3. A market agency within the meaning of and subject to the provisions of the Act.

(g) On or about March 3, 2009, a new business entity replaced Respondent Allen County Livestock as the operator of the livestock auction market facility at 315 South Main, Gas, Kansas. The new operating entity registered with the Secretary of Agriculture.

II

(a) Section 201.42 of the Regulations (9 C.F.R. § 201.42), issued by the Secretary of Agriculture under the Packers and Stockyards Act, requires market agencies selling livestock on commission to maintain a custodial account for shippers' proceeds ("custodial account"). A custodial account is a trust account that protects funds that are owed to livestock producers and owners who consign livestock for sale at an auction market. The proceeds from livestock sales at regulated auction markets must be deposited into custodial accounts. If the proceeds receivable from livestock sales cannot be collected and deposited into a market's custodial account by the close of the seventh day after the sale, then the market must make up the shortfall and reimburse the custodial account for the unpaid receivables.

(b) By final Order of the Secretary of Agriculture, issued on January 9, 2008, *In re: Allen County Livestock Auction, LLC, a/k/a Adams & Peterson, LLC, and John Adams and Dale Peterson*, P&S Docket No. D-08-0001 (Jan. 9, 2008), a copy of which is attached hereto as "Exhibit A," Respondents were ordered to cease and desist from "[f]ailing to . . . maintain their Custodial Account for Shippers' Proceeds in strict conformity with the provisions of Section 201.42 of the regulations (9 C.F.R. § 201.42)." Notwithstanding this Order, Respondents continued to fail to maintain their custodial account in conformity with section 201.42 of the Regulations.

III.

During the period of April 30, 2008, through July 15, 2008, Respondents failed to maintain and use properly the custodial account at Allen County Livestock, thereby endangering the faithful and prompt accounting of shippers' proceeds and the payments due the owners or consignors of livestock in that:

(a) As of April 30, 2008, Respondent Allen County Livestock had outstanding checks drawn on its custodial account and expense items remaining in the account in the amount of \$314,775.89 and had to offset such checks and expense items a balance in the custodial account of \$69,230.31 and proceeds receivable of \$207,842.92, resulting in a custodial account shortage in the amount of \$37,702.66;

(b) As of June 30, 2008, Respondent Allen County Livestock had outstanding checks drawn on its custodial account in the amount of \$64,357.57 and had to offset such checks a balance in the custodial account of \$13,753.10, resulting in a custodial account shortage in the amount of \$50,604.47; and

(c) As of July 15, 2008, Respondent Allen County Livestock had outstanding checks drawn on its custodial account and expense items remaining in the account in the amount of \$579,924.76 and had to offset such checks and expense items a balance in the custodial account of \$20,488.22 and proceeds receivable of \$497,779.26, resulting in a custodial account shortage in the amount of \$61,657.28.

(d) The shortages in Respondent Allen County Livestock's custodial account were due, in part, to Respondents' failure to deposit into the account an amount equal to the proceeds receivable from the sale of consigned livestock within the time prescribed by section 201.42 of the Regulations (9 C.F.R. § 201.42).

IV.

By reason of the facts alleged in paragraph I, Respondents John Adams and Dale Peterson are the alter egos of Respondent Allen County Livestock.

By reason of the facts alleged in paragraph III herein, Respondents have willfully 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).

WHEREFORE, it is hereby ordered that this Complaint shall be served on Respondents for the purpose of determining whether Respondents have willfully violated the Act. 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 Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 *et seq.*; hereinafter the "Rules of Practice"). Failure to

file an answer shall constitute an admission of all the material allegations of this Complaint.

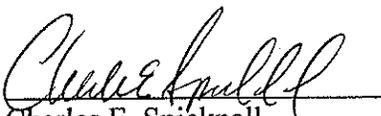
The Packers and Stockyards Program, GIPSA requests:

1. That unless Respondents fail to file an answer within the time allowed therefore, 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.
2. That an order be issued requiring Respondents to cease and desist from the violations found to exist, suspending Respondent Allen County Livestock as a registrant under the Act, prohibiting Respondents John Adams and Dale Peterson from registering under the Act, and assessing such civil penalties as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 29 day of July 2009


Alan R. Christian
Deputy Administrator,
Packers & Stockyards Program


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