

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

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In re: ) Docket No. D-13-0115  
)  
Josephine E. Bonaccurso, Inc., )  
d/b/a Salem Packing Company, )  
)  
and )  
)  
Samuel Bonaccurso, )  
)  
Respondents ) Complaint and Notice of Hearing

There is reason to believe that the respondents named herein have willfully violated provisions of the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et. seq.*)(Act) and the regulations promulgated thereunder (9 C.F.R. § 201.1-201.200) (regulations), and, therefore, this complaint and notice of hearing is issued alleging the following:

I.

a. Respondent Josephine A. Bonaccurso, Inc., doing business as Salem Packing Company, is a corporation organized and existing under the laws of the State of New Jersey. Its principal place of business is located at 705 Salem Quinton Road, Salem, New Jersey, 08079, and its mailing address is P.O. Box 131, Salem, New Jersey 08079.

b. Respondent Samuel Bonaccurso is an individual with a business mailing address of Salem Packing Company, P.O. Box 131, Salem, New Jersey 08079. Respondent Samuel Bonaccurso is the president and owner of the corporate respondent. Respondent Samuel Bonaccurso is, and at all times material herein was, responsible for the direction, management,

and control of the corporate respondent, including responsibility for the violations of the Act and regulations described in this complaint and notice of hearing.

c. Respondent Josephine A. Bonaccorso, Inc. (Salem Packing Company), and respondent Samuel Bonaccorso are, and at all times material herein were, engaged in the business of operating the Salem Packing Company and engaged in the business of buying livestock in commerce for the purposes of slaughter and the manufacturing and preparation of meats and meat food products for sale and shipment in commerce.

d. Respondents are, and at all times material herein were, engaged in business as a packer within the meaning of that term as defined in the Act and subject to the provisions of the Act and regulations.

## II.

a. On June 24, 2003, Salem Packing Company and its then-owner Anthony Bonaccorso entered into a consent decision in P&S Docket D-02-0015, which among other things, ordered Salem Packing, its owners, its agents and employees, directly or through any corporate or other device, to cease and desist from: (1) failing to pay, when due, for livestock purchases, (2) failing to pay the full purchase price of livestock, and (3) failing to maintain an adequate bond.

b. On October 19, 2007, the U.S. District Court for the District of New Jersey entered a consent decision that permanently enjoined Salem Packing and Samuel Bonaccorso from “violating the provisions of the Secretary of Agriculture's June 24, 2003 Order, by which Defendants were ordered to cease and desist from failing to pay, when due, the full purchase price of livestock as required by the section 409 of the Packers and Stockyards Act (7 U.S.C. 228h) and the regulations promulgated thereunder.”

c. In 2011, the U.S. Department of Agriculture's Grain Inspection, Packers and Stockyards Administration (GIPSA) filed an administrative complaint against respondents alleging that they violated the Act and regulations by operating while insolvent on three occasions in 2010 and 2011 and by failing to pay, when due, for over \$700,000 of livestock in multiple livestock purchase transactions from October, 2007, through July, 2010. On December 16, 2011, the U.S. District Court for the District of New Jersey entered a consent preliminary injunction that enjoined respondents "from purchasing livestock except to the extent that such purchases comply with Section 409(a) of the Act, 7 U.S.C. § 228b(a)." The consent preliminary injunction ordered respondents, "before the close of business the next day following purchase of livestock and transfer of possession thereof, [to] actually deliver at the point of transfer of possession to the seller, or to his or her duly authorized representative, a check or . . . wire transfer funds to the seller's account for the full amount of the purchase price. If the seller or his or her duly authorized representative is not present to receive payment at the point of transfer of possession, [respondents] shall wire transfer funds or place a check in the United States mail for the full amount of the purchase price, properly addressed to the seller." The consent preliminary injunction further provided that the injunction would expire upon entry of a Secretary's order in the administrative proceeding, directing respondents to cease and desist from committing further violations of the Act and regulations.

d. On February 28, 2012, respondents entered into a consent decision in P&S Docket No. D-11-0402 that ordered them, their agents and employees, to cease and desist from purchasing livestock unless they delivered to the seller or his duly authorized representative the full amount of the purchase price, in U.S. currency or by wire transfer, by close of the next business day following said purchase and transfer of possession of the livestock. Respondents also were

ordered to cease and desist from failing to pay, when due, the full amount of the purchase price of livestock as required by section 409 of the Act (7 U.S.C. § 228b(a)). Respondents were further ordered to pay a civil penalty of nineteen thousand five hundred dollars (\$19,500.00). As of the filing of this complaint, respondents have not paid the assessed civil penalty.

### III.

a. From January 23, 2012, through April 20, 2012, in 21 transactions with three different livestock sellers, respondents purchased 462 head of livestock for \$561,539.97 and failed to pay, when due, the full purchase price of the livestock. As of the date of the filing of this complaint, respondents have failed to pay the \$561,539.97 due for these purchases.

b. From January 2, 2012, through May 22, 2012, in 27 transactions with five different livestock sellers, respondents purchased 381 head of livestock for \$388,247.36 and failed to pay, when due, the full purchase price of the livestock within the time period required by the Act.

c. From April 9, 2012, through June 19, 2012, in 14 transactions with four different livestock sellers, respondents purchased 100 head of livestock for \$89,031.79 and paid the livestock sellers with non-certified checks.

### IV.

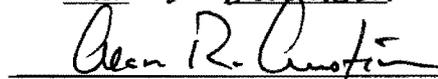
By reason of the facts alleged in paragraphs II and III, respondents have willfully violated sections 202(a) and 409 of the Act (7 U.S.C. § 192(a), 228b) and section 201.43 of the regulations.

Wherefore, it is hereby ordered that for the purpose of determining whether respondents have, in fact, willfully violated the Act and regulations, this Complaint and Notice of Hearing shall be served upon respondents. Respondents shall have twenty (20) days after receipt of this Complaint and Notice of Hearing in which to file with the Hearing Clerk, United States

Department of Agriculture, Washington, DC 20250, an answer with an original and three copies, fully and completely stating the nature of the defense and admitting or denying, specifically and in detail, each material allegation of this Complaint and Notice of Hearing. Allegations not answered will be deemed admitted for the purpose of this proceeding. Failure to file an answer shall constitute an admission of all the material allegations of this Complaint and Notice of Hearing unless the parties have agreed to a consent decision pursuant to section 1.138 of the Rules of Practice (7 C.F.R. § 1.138). Respondents are notified that unless a hearing is waived, whether expressly or by failure to answer and request a hearing as provided by sections 1.136 and 1.141 of the Rules of Practice (7 C.F.R. §§ 1.136, 1.141), a hearing for the above-mentioned purpose will be held at a place and time to be later designated before an administrative law judge authorized to conduct a hearing. At the hearing, respondents will have the right to appear and show cause why an appropriate order should not be issued, in accordance with the provisions of the Act, requiring respondents to cease and desist from violating the Act with respect to the matters alleged herein, and assessing an appropriate civil penalty.

Done at Washington, D.C.

this 12 day of December, 2012



Alan R. Christian  
Deputy Administrator  
Packers and Stockyards Program

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