

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

SEP 10 1953

In re:) P & S Docket No.
)
Lynchburg Livestock Market, Inc.,) 13-0351
C. Matthew Fariss, and)
Duane D. Gilliam,) 13-0352
)
) 13-0353
Respondents) Complaint

There is reason to believe that Lynchburg Livestock Market, Inc., C. Matthew Fariss, and Duane D. Gilliam, (collectively respondents) have willfully violated the provisions of the Packers and 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." Therefore, this Complaint is issued alleging the following:

I.

(a) Respondent Lynchburg Livestock Market, Inc. is a corporation organized under the laws of the State of Virginia, with its principal place of business located at 243 Livestock Road, Rustburg, Virginia. Its mailing address is P.O. Box 4122, Lynchburg, Virginia 24502. The corporation's registered agent for service of process is Leighton S. Houck, P.O. Box 6320, Lynchburg, Virginia 24505.

(b) Respondent Lynchburg Livestock Market, Inc. under the direction, management, and control of C. Matthew Fariss and Duane D. Gilliam, is, and at all times material herein was:

- (i) Engaged in the business of conducting and operating Lynchburg Livestock Market, Inc., a stockyard posted under and subject to the provisions of the Act;
- (ii) Engaged in the business of a market agency selling and buying livestock in commerce on a commission basis;
- (iii) Engaged in the business of a dealer buying or selling livestock in commerce; and
- (iv) Registered with the Secretary of Agriculture as a market agency to buy and sell livestock on a commission basis in commerce and as a dealer to buy or sell livestock in commerce.

(c) Respondent C. Matthew Fariss is an individual and his mailing address is P.O. Box 4122, Lynchburg, Virginia 24502. C. Matthew Fariss is, and at all times material herein was, fifty percent owner and President of respondent Lynchburg Livestock Market, Inc., and, in conjunction with Duane D. Gilliam, formulated, directed, and controlled the policies, practices and activities of respondent Lynchburg Livestock Market, Inc., including the acts and practices alleged in this complaint.

(d) Respondent Duane D. Gilliam is an individual and his mailing address is P.O. Box 4122, Lynchburg, Virginia 24502. Duane D. Gilliam is, and at all times material herein was, fifty percent owner and Vice President of respondent Lynchburg Livestock Market, Inc., and, in conjunction with C. Matthew Fariss, formulated, directed, and controlled the policies, practices and activities of respondent Lynchburg Livestock Market, Inc., including the acts and practices alleged in this complaint.

II.

(a) On or about August 6, 2012, in the transactions set forth below in paragraph (b), respondents sold livestock on commission at Lynchburg Livestock Market, Inc. located in Lynchburg, Virginia and in connection therewith:

- (i) Manually recorded the weight of livestock at other than their true and correct weights;
- (ii) Assessed and collected purchase amounts for livestock from buyers on the basis of the false or incorrect weights;
- (iii) Paid the sellers of the livestock on the basis of the false or incorrect weights; and
- (iv) Issued accounts of sale to the sellers of the livestock on the basis of the false or incorrect weights.

(b) In connection with the weighing of consigned livestock on August 6, 2012, sold on a weight basis, respondents weighed livestock on a digital scale. The livestock's weights were observed on the digital scale display by personnel of the Packers and Stockyards Program and the livestock were subsequently reweighed by personnel of the Packers and Stockyards Program. Neither the observed weight nor the check weight matched the manually recorded sale weight.

The transactions were as follows:

<u>Seller</u>	<u>No. Head</u>	<u>Sale Weight /pounds</u>	<u>Observed Weight /pounds</u>	<u>Check Weight /pounds</u>
E.B. & T. S. Drinkard	1	495	505	500
Roy A. Watson	1	495	510	500

Andy Clowdis	1	495	500	500
Andy Clowdis	1	495	510	510

III.

By reason of the facts alleged in paragraph II herein, respondents have willfully violated section 312(a) of the Act (7 U.S.C. § 213(a)) and section 201.55 of the regulations thereunder, (9 C.F.R. § 201.55).

Wherefore, it is hereby ordered for the purpose of determining whether the respondents have willfully violated the Act and regulations issued thereunder, this complaint shall be served upon the respondents. The respondents shall have twenty (20) days after receipt of this complaint in which to file an answer with the Hearing Clerk, Room 1031-South Building, United States Department of Agriculture, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 *et seq.*). 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 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 and assessing such civil penalties against respondents as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 18th day of September, 2013

Susan B. Keith

Susan B. Keith
Deputy Administrator
Packers and Stockyards Program

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