

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

2016 JUN -9 PM 2: 57

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In re:) P & S Docket No. 16-0116
)
Costa Live Poultry, Inc.)
)
)
Respondent) Complaint and Notice of Hearing

There is reason to believe that the respondent named herein has willfully violated provisions of the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*), therefore, this complaint is issued alleging the following:

I.

(a) Costa Live Poultry, Inc. ("respondent"), is a business located at 136 Costa Road, Sunbury, Pennsylvania 17801.

(b) At all times material herein, respondents were engaged in business as live poultry dealers in the Commonwealth of Pennsylvania.

II.

(a) On or about January 31, 2014 to February 28, 2014, respondent purchased live poultry from seller Clark's Feed Mills and failed to pay the full purchase price of such poultry, in violation of 7 U.S.C. § 228b-1(a). (See Exhibit 1)¹.

III.

¹ Exhibit 1 reflects payments made and total due as of March 25, 2014. Complainant has reason to believe additional payments have been made, however, the balance has not been paid in full.

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and the regulations issued hereunder, this complaint and notice of hearing shall be served upon the respondent. The respondent has twenty (20) days in which to file with the Hearing Clerk, United States Department of Agriculture, Washington, DC 20250, an answer 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 and waiver of hearing.

Respondent is hereby notified that unless hearing is waived, either expressly or by failure to answer and request a hearing, a hearing will be held in accordance with the Rules of Practice, at a place and time to be designated later. At the hearing, Respondent 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 Respondent to cease and desist from violating the Act with respect to the matters alleged herein and assessing such civil penalties as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.
this 9th day of June, 2016


Susan B. Keith
Deputy Administrator
Packers and Stockyards Administration

Tracey Manoff
Attorney for Complainant
Marketing, Regulatory, and Food Safety Programs Division
Office of the General Counsel, USDA

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1400 Independence Ave. S.W.
Washington, D.C. 20250-1400

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US Department of Agriculture
 Grain Inspection, Packers and Stockyards Administration
 Packers and Stockyards Program (P&SP)
 Schedule of Failure to Pay/Pay When Due for Poultry

Entity Information

Investigation Date	Entity	Mailing Address				Control Number						Exhibit
3/25/2014	Costa Live Poultry, Inc.	136 Costa Road Sunbury, PA 17801-6609				179604						
Invoice Number	Date Moved	Number of Head Moved	Price Per pound	Amount Owed to Clark's Feed Mills, Inc.	Date Due	Payment Amount	Date Check Issued	Check Number	Balance Owed	Days Payment Late as of March 25, 2014	Remarks	Exhibit
1442	1/18/2014	13,640	\$0.57	\$7,774.80	1/20/2014							A-1
1442	1/18/2014	9,140	\$0.72	\$6,580.80	1/20/2014							
1442	1/18/2014	8,140	\$0.72	\$5,860.80	1/20/2014							
1442	1/18/2014	15,180	\$0.57	\$8,652.60	1/20/2014							
1442	1/18/2014	13,060	\$0.57	\$7,444.20	1/20/2014							
1442	1/18/2014	29,860	\$0.57	\$17,020.20	1/20/2014							
1442	1/18/2014	25,320	\$0.57	\$14,432.40	1/20/2014							
1442	1/18/2014	19,760	\$0.57	\$11,263.20	1/20/2014							
1442	1/18/2014	19,500	\$0.57	\$11,115.00	1/20/2014							
1442	1/18/2014	22,300	\$0.57	\$12,711.00	1/20/2014							
1442	1/18/2014	8,960	\$0.72	\$6,451.20	1/20/2014							
1442	1/18/2014	20,560	\$0.57	\$11,719.20	1/20/2014							
				\$121,025.40		(\$39,265.90)	3/10/2014	2606	\$81,759.50		Check 2606 paid for the prior invoices, leaving a credit towards invoice #1442. Paid in full with check 2612. Leaving \$53,240.50 to go towards January 29 invoice	
						(\$65,000.00)	3/15/2014	2611	\$16,759.50			
						(\$70,000.00)	3/18/2014	2612	(\$53,240.50)	57		
1444	1/25/2014	254,780	\$0.57	\$145,224.60	1/27/2014	(\$53,240.50)	3/18/2014	2612	\$91,984.10		Check 2612 paid for the prior invoice, leaving a credit towards invoice #1444. Paid in full with check 2614. Leaving \$43,015.90. to go towards January 31 invoice	A-2
						(\$75,000.00)	3/21/2014	2613				
						(\$60,000.00)	3/22/2014	2614	(\$43,015.90)	54		
1445	1/31/2014	16,280	\$0.72	\$11,721.60	2/3/2014							A-3
1445	1/31/2014	12,180	\$0.57	\$6,942.60	2/3/2014							
1445	1/31/2014	39,120	\$0.57	\$22,298.40	2/3/2014							
1445	1/31/2014	22,160	\$0.57	\$12,631.20	2/3/2014							
1445	1/31/2014	23,780	\$0.57	\$13,554.60	2/3/2014							
1445	1/31/2014	28,120	\$0.57	\$16,028.40	2/3/2014							
1445	1/31/2014	14,662	\$0.57	\$8,367.34	2/3/2014							
1445	1/31/2014	3,560	\$0.72	\$2,563.20	2/3/2014							
				\$94,097.34		(\$43,015.90)	3/22/2014	2614	\$51,081.44	47	\$51,081.44 remains unpaid on this invoice plus following 4 invoices.	
1446	2/8/2014	9,400	\$0.57	\$5,358.00	2/10/2014							A-4
1446	2/8/2014	18,100	\$0.59	\$10,588.50	2/10/2014							
1446	2/8/2014	35,300	\$0.57	\$20,121.00	2/10/2014							
1446	2/8/2014	31,060	\$0.57	\$17,704.20	2/10/2014							
1446	2/8/2014	31,260	\$0.57	\$17,818.20	2/10/2014							
1446	2/8/2014	11,640	\$0.59	\$6,809.40	2/10/2014							
1446	2/8/2014	47,740	\$0.57	\$27,211.80	2/10/2014							
1446	2/8/2014	10,480	\$0.59	\$6,130.80	2/10/2014							
1446	2/8/2014	25,920	\$0.57	\$14,774.40	2/10/2014							
1446	2/8/2014	8,150	\$0.72	\$5,868.00	2/10/2014							



US Department of Agriculture
Grain Inspection, Packers and Stockyards Administration
Packers and Stockyards Program (P&SP)
Schedule of Failure to Pay/Pay When Due for Poultry

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1446	2/8/2014	9,650	\$0.72	\$6,948.00	2/10/2014								
				\$139,332.30					\$139,332.30	43			
1447	2/15/2014	22,860	\$0.57	\$13,030.20	2/17/2014							A-5	
1447	2/15/2014	19,700	\$0.58	\$11,376.75	2/17/2014								
1447	2/15/2014	26,280	\$0.57	\$14,979.60	2/17/2014								
1447	2/15/2014	24,440	\$0.58	\$14,114.10	2/17/2014								
1447	2/15/2014	24,740	\$0.57	\$14,101.80	2/17/2014								
1447	2/15/2014	19,740	\$0.57	\$11,251.80	2/17/2014								
1447	2/15/2014	27,580	\$0.57	\$15,720.60	2/17/2014								
1447	2/15/2014	21,320	\$0.57	\$12,152.40	2/17/2014								
1447	2/15/2014	4,420	\$0.59	\$2,585.70	2/17/2014								
				\$109,312.95					\$109,312.95	36			
1448	2/22/2014	30,800	\$0.57	\$17,556.00	2/24/2014							A-6	
1448	2/22/2014	10,980	\$0.72	\$7,905.60	2/24/2014								
1448	2/22/2014	25,640	\$0.57	\$14,614.80	2/24/2014								
1448	2/22/2014	23,040	\$0.57	\$13,132.80	2/24/2014								
1448	2/22/2014	30,500	\$0.57	\$17,385.00	2/24/2014								
1448	2/22/2014	14,510	\$0.57	\$8,270.70	2/24/2014								
1448	2/22/2014	11,690	\$0.57	\$6,663.30	2/24/2014								
1448	2/22/2014	20,740	\$0.58	\$11,977.35	2/24/2014								
1448	2/22/2014	22,620	\$0.58	\$13,063.05	2/24/2014								
1448	2/22/2014	15,280	\$0.72	\$11,001.60	2/24/2014								
1448	2/22/2014	7,340	\$0.66	\$4,844.40	2/24/2014								
				\$126,414.60					\$126,414.60	29			
1449	2/28/2014	23,640	\$0.57	\$13,474.80	3/3/2014							A-7	
1449	2/28/2014	30,860	\$0.57	\$17,590.20	3/3/2014								
1449	2/28/2014	9,040	\$0.57	\$5,152.80	3/3/2014								
1449	2/28/2014	9,720	\$0.57	\$5,540.40	3/3/2014								
1449	2/28/2014	22,540	\$0.57	\$12,847.80	3/3/2014								
1449	2/28/2014	22,840	\$0.57	\$13,018.80	3/3/2014								
1449	2/28/2014	17,080	\$0.57	\$9,735.60	3/3/2014								
1449	2/28/2014	32,240	\$0.57	\$18,376.80	3/3/2014								
1449	2/28/2014	32,500	\$0.57	\$18,525.00	3/3/2014								
1449	2/28/2014	17,620	\$0.72	\$12,686.40	3/3/2014								
1449	2/28/2014	11,340	\$0.68	\$6,548.85	3/3/2014								
				\$133,497.45					\$133,497.45	22			
TOTAL DUE AS OF 3/25/14									\$559,638.74				