

UNITED STATES DEPARTMENT OF AGRICULTURE 2016 JUL 14 PM 12: 57

BEFORE THE SECRETARY OF AGRICULTURE

RECEIVED

In re:)	
)	
Stephen Smeal)	P&S Docket No. D-16-0130
d/b/a Fatted Calf Cattle Farms #6)	
)	
Respondent)	Complaint

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.*) (“the Act”) and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 *et seq.*) and, therefore, this complaint is issued alleging the following:

I.

1. Stephen Smeal is, and at all times material herein, was, an individual doing business as Fatted Calf Cattle Farms #6, and has a business mailing address of 1203 VZCR 2414, Canton, TX, 75103. The Respondent Stephen Smeal, doing business as Fatted Calf Cattle Farms #6 is, and, at all times material herein, was:

- a. Engaged in the business of buying livestock on a commission basis in commerce;
- b. Engaged in the business of a dealer buying and selling livestock in commerce; and
- c. Registered with the Secretary of Agriculture as a dealer and market agency to buy

livestock on a commission basis.

II.

On or about September 24, 2012, the Respondent agreed to a Consent Decision and Order (Consent Decision), *In re: Stephen Smeal, d.b.a. Fatted Calf Cattle Farms #6*, P&S Docket No.

D-12-0376. The Consent Decision required the Respondent, doing business as Fatted Calf Cattle Farms #6, directly or through any corporate or other device, in connection with his operations subject to the Act, to cease and desist from:

1. Failing to pay and failing to pay, when due, the full purchase price of livestock as required by section 409 of the Act (7 U.S.C. § 228b) and section 201.43 of the regulations (9 C.F.R. § 201.43); and

2. Issuing checks in payment for livestock without having and maintaining sufficient funds on deposit and available in the accounts upon which they are drawn to pay such checks when presented.

Notwithstanding the Consent Decision, the Respondent has continued operations by failing to pay, when due, the full purchase price of livestock and issuing checks in payment for livestock without having and maintaining sufficient funds on deposit and available in the accounts upon which they were drawn to pay such checks when presented in violation of sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a) and 228b).

III.

On or about December 15, 2012, and continuing until January 4, 2014, the Respondent, in twenty seven (27) transactions totaling approximately \$1,155,556.17, purchased approximately 1370 head of livestock in commerce and failed to pay, when due, the full purchase price of such livestock. (See Appendix A).

IV.

On or about March 6, 2013, and continuing until March 23, 2013, the Respondent, in four (4) transactions totaling approximately \$126,564.04, purchased approximately 135 head of livestock in commerce and issued checks, which were returned unpaid by the banks upon which

the checks were drawn. The issued checks were returned unpaid by the banks upon which the checks were drawn because the Respondent did not have and maintain sufficient funds on deposit and available in the account to pay such checks when the checks were presented. (See Appendix B).

V.

By reason of the facts alleged in paragraphs III and IV, the Respondent willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a) and 228b).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the Respondent has willfully violated the Act and the regulations, this complaint shall be served upon the Respondent. The Respondent shall have 20 days following receipt of this complaint 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 shall constitute an admission of all the material allegations of this complaint.

The Grain Inspection, Packers and Stockyards Administration, requests:

1. That unless the Respondent fails to file an answer within the time allowed, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in accord with the Rules of Practice governing proceedings under the Act; and
2. That such order or orders be issued, including an order requiring the Respondent to cease and desist from violating the Act with respect to the matters alleged herein and assessing such penalties as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 14th day of July, 2016



Susan B. Keith
Deputy Administrator
Packers and Stockyards Program

John V. Rodriguez
Attorney for the Complainant
Office of the General Counsel
Marketing, Regulatory and
Food Safety Programs Division
Room 2319, South Building
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, D.C. 20250-1400
Telephone: (202) 720-2510
john.rodriguez@ogc.usda.gov