

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

2016 FEB 25 PM 2: 36

RECEIVED

In re:)	
)	P & S Docket No. 16-0044
)	
Carl Mendes, Jr.,)	
)	
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.*), 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

(a) Carl Mendes, Jr., hereinafter referred to as the respondent, is an individual. The respondent's mailing address will not be stated in the complaint to protect the privacy of Mr. Mendes, but will be provided to the Hearing Clerk's Office, United States Department of Agriculture, for the purposes of service of this complaint.

(b) Respondent is, and at all times material herein was,

(1) Engaged in the business of a dealer buying and selling livestock in commerce;

and

(2) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce.

(c) Respondent's registration expired on September 5, 2013.

II

Respondent was advised by the Western Regional Office, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA) in a letter dated February 11, 2013, that his \$10,000.00 bond (bond number 41233051) with Platte River Insurance Company would terminate on March 6, 2013. The letter stated that unless the Respondent had new bonds or bonds equivalent securing the performance of his livestock obligations on or before March 6, 2013, he must discontinue all livestock operations for which bonding is required under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. §§ 181-229) and that continuing such operations is considered a violation of the Act and regulations issued thereunder and may subject him to disciplinary action under the Act (7 U.S.C. §§ 192 (packers) 204, 213(a) (market agencies and dealers) and 9 C.F.R. §§ 201.29-201.30). The letter dated February 11, 2013 was not delivered. The letter was resent on February 27, 2013 by United Parcel Service (UPS) and was delivered on March 4, 2013 and signed for by Kim Mendes. Despite the fact that the letter requested that Mr. Mendes complete a *Statement of Operations* form, indicating whether he had secured a new bond, or intended to discontinue his livestock operations, GIPSA received no response from Respondent.

III

Notwithstanding the letter, on or about April 10, 2013, and continuing through June 17, 2013, in approximately 17 transactions, at A&M Livestock Auction, Inc. in Hanford, California; Fresno Livestock Commission, LLC in Fresno, California; and Modesto Livestock Commission Company, Inc. in Modesto, California, Respondent purchased with the intent to resell 376 head of livestock in the amount of approximately \$16,646.15, and sold at least 225 head of livestock

in 10 transactions for the amount of approximately \$12,967.00, without maintaining an adequate bond or bond equivalent.

IV

Respondent, on or about April 10, 2013, through June 5, 2013, purchased livestock in the amount of approximately \$7,550.20 from A&M Livestock Auction, Inc. and Fresno Livestock Commission, LLC and failed to pay, when due, the purchase price of the livestock within the time period required by the Act. Respondent's payments were made between approximately 2 and 28 days late.

V

By reason of the facts alleged in paragraph III, respondent willfully violated section 312(a) of the Act (7 U.S.C. § 213(a)), and sections 201.29 and 201.30 of the regulations (9 C.F.R. §§ 201.29 and 201.30).

By reason of the facts alleged in paragraph IV, respondent willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a) and 228b), and section 201.43 of the regulations (9 C.F.R. § 201.43).

WHEREFORE, it is hereby ordered that this complaint shall be served upon respondent for the purpose of determining whether respondent has violated the Act and regulations.

Respondent 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 Grain Inspection, Packers and Stockyards Administration requests:

1. That unless 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 accordance with the Rules of Practice; and
2. That such order or orders be issued, including an order requiring respondent to cease and desist from the violations of the Act and the regulations found to exist, prohibiting respondent from being registered as a dealer and engaging in business as a dealer for a specified period of time, and assessing such civil penalties against respondent as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 18th day of February, 2016


Susan B. Keith
Deputy Administrator
Packers and Stockyards Program

Lauren Axley
Attorney for the Complainant
Office of the General Counsel—Regulatory Division
Room 2319, South Building
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, D.C. 20250-1405
Telephone: (202) 720-5143