

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:) P. & S. Docket No. D-07-00 0190
Timothy R. Baumert,)
Respondent) Complaint

There is reason to believe that Respondent named herein has willfully violated 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, and therefore, this complaint is issued alleging the following:

I

- (a) Timothy R. Baumert, hereinafter Respondent, is an individual whose business address is RR 1, Box 29, Dairy Rd., Dalmatia, PA 17017.
- (b) Respondent is and at all times material herein was:
- (1) Engaged in the business of a dealer, buying and selling livestock for his own account; and
 - (2) Registered with the Secretary of Agriculture as a dealer, buying and selling livestock for his own account.

II

- (a) Respondent, on or about the dates and in the transactions set forth below, purchased livestock and failed to pay, within the time period required by the Act, the full purchase price of such livestock.

Livestock Seller	Purchase Date	Date Payment Due per § 409a	No. of Head	Livestock Amount	Sales Invoice Amount *	Payment Check Amount	Date issued	No. of Days Late
New Holland Sales Stables, Inc.	7/07/05	7/08/05	39	\$2,796.20	\$ 2,776.98	\$10,175.95	7/14/05	6
	7/11/05	7/12/05	103	\$7,412.70	\$ 7,398.97			2
New Holland Sales Stables, Inc.	7/21/05	7/22/05	31	\$ 2,711.30	\$ 2,696.73	\$15,984.44	7/29/05	7
	7/25/05	7/26/05	39	\$12,591.80	\$12,562.34			3
	7/28/05	7/29/05	11	\$ 717.50	\$ 725.37			0
New Holland Sales Stables, Inc.	8/04/05	8/05/05	38	\$ 2,460.85	\$ 2,452.91	\$22,914.09	8/11/05	6
	8/08/05	8/09/05	246	\$20,503.50	\$20,461.18			2
Beegle's Livestock	7/13/05	7/14/05	28	\$1,859.66	\$1,859.66	\$3,540.38	7/21/05	7
	7/18/05	7/19/05	8	\$ 810.19	\$ 810.19			2
	7/20/05	7/21/05	7	\$ 570.53	\$ 570.53			0
Shannon Banbury	7/13/05	7/14/05	544	\$41,584.23	\$42,128.23	\$44,412.53	7/21/05	7
	7/19/05	7/20/05	38	\$ 2,246.30	\$ 2,284.30		7/21/05	1
Shannon Banbury	8/17/05	8/18/05	489	\$35,931.79	\$36,601.79	\$36,601.79	8/24/05	6
Doug Boehne	7/25/05	7/26/05	101	\$7,535.70	\$5,327.70	\$5,327.70	8/2/05	7
Doug Boehne	7/25/05	7/26/05	10	\$1,067.42	\$ 1,067.42	\$14,928.98	8/4/05	9
	7/31/05	8/01/05	237	\$15,088.87	\$13,861.56			3

* Adjustments have been made on some of these sales invoices for freight and for lamb check off credits.

(b) In a certified letter dated February 2, 1998, served upon Respondent on February 6, 1998, Lawrence D. Poss, Acting Regional Supervisor of the Lancaster, Pennsylvania regional office of Complainant, informed Respondent that a recent investigation had disclosed that Respondent was hand delivering checks issued in payment for livestock purchases to a market seven to nine days after purchase instead of before the close of the next business day as required by section 409(a) of the Act.

(c) In a certified letter dated June 6, 2003, served upon Respondent on June 12, 2003, Craig F. Stephens, Resident Agent Supervisor of the Atlanta, Georgia regional office of

Complainant, informed Respondent that a recent investigation had disclosed that Respondent was hand delivering checks issued in payment for livestock purchases to a market up to eleven days after purchase instead of before the close of the next business day as required by section 409 of the Act.

III

(a) In a certified letter dated February 13, 2003, which was served on Respondent on February 21, 2003, Creig F. Stephens, Resident Agent Supervisor of the Atlanta, Georgia regional office of Complainant, informed Respondent that a recent investigation of his records disclosed that Respondent's \$20,000.00 bond coverage needed to be increased to \$40,000.00.

(b) In a certified letter dated January 4, 2004, served upon Respondent on January 10, 2004, John Rollins, Trade Practices Supervisor of the Atlanta, Georgia regional office of Complainant, informed Respondent that based upon the volume of business shown in his last annual report, which was filed for the year ending December 31, 2002, that Respondent's \$20,000.00 bond coverage needed to be increased to \$40,000.00.

(c) In a certified letter dated November 22, 2005, served upon Respondent on November 25, 2005, Herple A. Ellis, IV, Trade Practices Supervisor of the Atlanta, Georgia regional office of Complainant, informed Respondent that based upon the volume of business shown in his last annual report, which was filed for the year ending December 31, 2004, that Respondent's \$20,000.00 bond coverage needed to be increased to \$45,000.00.

(d) Despite the above written notices, Respondent has not increased the amount of his bond coverage above \$20,000.00.

(f) On April 14, 2006, Respondent signed an annual report for the year ending

December 31, 2005, in which he reported making livestock purchases totaling \$4,922,860.57 as a dealer. A continuation of livestock purchases at this volume will require Respondent to file a \$40,000 bond or bond equivalent to comply with the regulations.

IV

By reason of the facts alleged in paragraph II herein, Respondent has wilfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a), 228b).

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

WHEREFORE, it is hereby ordered that for the purpose of determining whether Respondent has in fact willfully violated the Act and the regulations thereunder, this complaint shall be served upon Respondent. Respondent shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, in accordance with the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 et seq.) (hereinafter, "Rules of Practice"). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

Packers and Stockyards Program, GIPSA, requests:

1. That unless Respondent fails to file an answer within the time allowed therefor, 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 found to exist, suspending the Respondent as a registrant

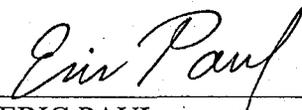
under the Act and assessing such civil penalties as are authorized by the Act and warranted in the premises.

Done at Washington, D.C.

this 12 day of September 2007



ALAN R. CHRISTIAN
Deputy Administrator
Packers and Stockyards Program
Grain Inspection, Packers and Stockyards
Administration



ERIC PAUL
Attorney for Complainant
Telephone: (202) 720-2460