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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:)	P & S Docket No. D-11- 0399
)	
Haskell Livestock Auction Company, Inc.,)	
Bryan D. Rainey, aka B.D. Rainey, and)	
Kathrene Francine Rainey, aka)	
Francine Rainey,)	
)	
Respondents)	Complaint

There is reason to believe that the Respondents named herein have willfully violated the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.) (Act) and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.) (Regulations), and, therefore, this complaint is issued alleging the following:

I.

(a) Haskell Livestock Auction Company, Inc. (Respondent Haskell), was a corporation organized and existing under the laws of the State of Texas. Respondent Haskell was involuntarily dissolved on April 1, 2009. Respondent Haskell's current mailing addresses are c/o Bryan D. Rainey and c/o Kathrene Francine Rainey, both in the State of Texas. The addresses will not be stated in this complaint to protect the privacy of Mr. and Mrs. Rainey, 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 Haskell, at all times material to this complaint, was:

- (1) Engaged in the business of a market agency selling livestock in commerce on a commission basis; and

(2) Registered with the Secretary of Agriculture as a market agency to sell livestock in commerce on a commission basis.

(c) Bryan D. Rainey, aka B.D. Rainey (Respondent B.D. Rainey), is an individual whose current mailing will be provided to the Hearing Clerk as provided in subparagraph (a) above.

(d) Respondent B.D. Rainey, at all times material to this complaint, was:

(1) Engaged in the business of buying and selling livestock in commerce as a dealer for his own account or for the account of others;

(2) Not registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for his own account or for the account of others;

(3) Operating as a dealer within the jurisdiction of the Act;

(4) President and treasurer of Respondent Haskell;

(5) General manager of Respondent Haskell;

(6) Director of Respondent Haskell;

(7) Fifty-one percent owner of Respondent Haskell; and

(8) Responsible for the direction, management, and control of Respondent Haskell.

(e) Kathrene Francine Rainey, aka Francine Rainey (Respondent F. Rainey), is an individual whose current mailing address will be provided to the Hearing Clerk as provided in subparagraph (a) above.

(f) Respondent F. Rainey, at all times material to this complaint, was:

(1) Vice-president and secretary of Respondent Haskell;

(2) Forty-nine percent owner of Respondent Haskell; and

- (3) Responsible for the direction, management, and control of Respondent Haskell.

II.

Respondent Haskell, under the direction, management and control of Respondents B.D. Rainey and F. Rainey, during the period of January 31, 2008, through April 30, 2008, failed to maintain properly its custodial account, thereby endangering the faithful and prompt accounting of shippers' proceeds and the payment due the owners or consignors of livestock in that:

✓(a) As of January 31, 2008, Respondent Haskell had outstanding checks drawn on its custodial account in the amount of \$210,457.82 and had to offset such checks, a negative balance in its primary custodial account of \$40,966.54, and a balance in its other custodial account of \$3,281.13, and proceeds receivable of \$40,706.86 resulting in a deficiency of \$207,436.37.

✓(b) As of March 31, 2008, Respondent Haskell had outstanding checks drawn on its custodial account in the amount of \$339,653.28 and had to offset such checks, a negative balance in the custodial account of \$41,750.91 and proceeds receivable of \$93,481.81 resulting in a deficiency of \$287,922.38.

✓(c) As of April 30, 2008, Respondent Haskell had outstanding checks drawn on its custodial account in the amount of \$114,180.80 and had to offset such checks, a balance in the custodial account of \$13.49 and proceeds receivable of \$1,385.31 resulting in a deficiency of \$112,782.00.

✓(d) The shortages in Respondent Haskell's custodial account were due, in part, to the withdrawal of bank charges from the custodial account, and misuse of the custodial account by remitting proceeds for purported livestock transactions that did not occur.

III.

(a) Respondent Haskell, under the direction, management, and control of Respondents B.D. Rainey and F. Rainey, on or about the dates and in the transactions set forth in Appendix A and incorporated herein by reference, misused its custodial account by permitting Respondent B.D. Rainey to use custodial account funds to pay for his individual dealer purchases.

(b) Respondent Haskell, under the direction, management, and control of Respondents B.D. Rainey and F. Rainey, on or about the dates and in the transactions set forth in Appendix B and incorporated herein by reference, misused its custodial account by permitting the withdrawal of bank charges from its custodial account.

IV.

(a) Respondent Haskell, under the direction, management, and control of Respondents B.D. Rainey and F. Rainey, in connection with its operations subject to the Act, on or about the dates and in the transactions set forth in Appendix C and incorporated herein by reference, sold livestock on a commission basis and in purported payment of the net proceeds thereof, issued checks to consignors or shippers of such livestock which were returned unpaid by the bank upon which they were drawn because Respondent Haskell did not have and maintain sufficient funds on deposit and available in the account upon which such checks were drawn to pay such checks when presented.

(b) Respondent Haskell, under the direction, management, and control of Respondents B.D. Rainey and F. Rainey, in connection with its operations subject to the Act, on or about the dates and in the transactions set forth in Appendix C and incorporated herein by reference, and in the additional transactions set forth in Appendix D and incorporated herein by

reference, failed to timely remit, within the time periods required by the Act and the Regulations, the net proceeds due to consignors from the sale of livestock on a commission basis. After payout from Respondent Haskell's bond, \$1,064.25 remains unpaid.

V.

✓ (a) Respondent Haskell, under the direction, management, and control of Respondents B.D. Rainey and F. Rainey, in connection with its operations subject to the Act, failed to keep and maintain records which fully and correctly disclosed all the transactions involved in its business as a market agency as required by section 401 of the Act (7 U.S.C. § 221). Specifically, Respondent Haskell failed to keep and maintain an outstanding check listing, current balance sheet, accounts receivable listing, and all bank notices regarding its custodial account.

(b) Respondent Haskell, under the direction, management, and control of Respondents B.D. Rainey and F. Rainey, in connection with its operations subject to the Act, on three separate occasions in December 2007 through April 2008, falsified records by generating invoices and generating and issuing checks in purported payment for livestock purchases that did not occur.

VI.

By reason of the facts alleged in paragraph I, Respondents B.D. Rainey and F. Rainey are the alter egos of Respondent Haskell.

By reason of the facts alleged in paragraph II-III, Respondents willfully violated sections 307 and 312(a) of the Act (7 U.S.C. §§ 208, 213(a)), and section 201.42 of the Regulations (9 C.F.R. § 201.42).

By reason of the facts alleged in paragraph IV, Respondents willfully violated section

312(a) of the Act (7 U.S.C. § 213(a)), and section 201.43 of the Regulations (9 C.F.R. § 201.43).

By reason of the facts alleged in paragraph V, Respondents willfully violated sections 312(a) and 401 of the Act (7 U.S.C. §§ 213(a), 221), by falsifying records and by failing to keep and maintain records that fully and correctly disclosed all transactions involved in their business.

WHEREFORE, it is hereby ordered that this complaint shall be served upon Respondents for the purpose of determining whether Respondents have willfully violated the Act and the Regulations. 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, SW., Washington, DC 20250-9200, in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 et seq.) (Rules of Practice). 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 (GIPSA), 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 suspending Respondents as registrants under the Act.

Done at Washington, D.C.

this 14 day of September, 2011



Alan R. Christian
Deputy Administrator
Packers and Stockyards Program

Leah C. Battaglioli
Attorney for Complainant
Office of the General Counsel
United States Department of Agriculture
Room 2309, Stop 1413
1400 Independence Avenue, SW.
Washington, DC 20250-1413
(202) 720-5191

APPENDIX A

Seller	Purchase Date	Buyer Name Used	No. of Head	Invoice Amount	Check Date	Check No.	Check Amount	Date Cleared Custodial Account
Western Livestock Auction, Inc. Midland, Texas	12/18/2007	2 R Cattle ¹	99	\$54,660.05	12/24/2007	50181	\$27,400.33 ²	12/27/2007
Jordan Cattle Auction San Saba, Texas	12/3/2007	B.D. Rainey	76	\$25,142.24 ³	12/31/2007	50220	\$24,742.23	1/3/2008
	12/6/2007		58	\$35,745.02				
	12/10/2007		19	\$13,148.84				
	12/13/2007		52	\$30,453.99				
	12/17/2007		20	\$12,086.01				
			225	\$116,576.10 ⁴				
Shamrock Livestock Commission Shamrock, Texas	3/12/2008	RP Cattle ⁵	80	\$11,199.12 ⁶	4/14/2008	52362	\$24,032.48	4/15/2008
	3/12/2008	F Farms ⁷	51	\$35,486.11				
	3/19/2008	RP Cattle	87	\$50,517.57				
	3/26/2008	RP Cattle	26	\$11,730.98				
	3/26/2008	F Farms	43	\$34,608.60				
			287	\$143,542.38 ⁸				

¹ Trade name used by Respondent B.D. Rainey when making dealer purchases.

² Respondent B.D. Rainey issued a personal check in the amount of \$27,259.72 for the remainder of the livestock purchase.

³ Respondent B.D. Rainey had a running total due for his dealer livestock purchases and periodically made payments.

All payments are assumed to have been applied to the oldest invoice first working to the most recent invoice.

The original invoice amount for this transaction was \$50,331.82, but after applying a partial payment, a balance remained of \$25,142.24.

⁴ At the time the custodial account check was issued and applied to Respondent B.D. Rainey's running debt, the total amount still due was \$116,576.10. Respondent B.D. Rainey made two additional payments after the custodial account check was issued in the amounts of \$20,000.00 and \$5,000.00 further reducing his running debt.

⁵ Trade name used by Respondent B.D. Rainey when making dealer purchases.

⁶ Respondent B.D. Rainey had a running total due for his dealer livestock purchases. Some payments and credits were applied to the debt. All payments are assumed to have been applied to the oldest invoice first working to the most recent invoice. The original invoice amount for this transaction was \$52,778.63, but after applying partial payments and credits, a balance remained of \$11,199.12.

⁷ Name of joint venture of Respondent B.D. Rainey and Keith Parrott.

⁸ According to Shamrock personnel, after the custodial check was applied to B.D. Rainey's running livestock debt, \$119,509.38 was still owed. Therefore, before the custodial check was applied \$143,542.38 was still owed.

APPENDIX B

Bank Statement Period	Overdraft Item Charge	Return Deposited Item Fee	NSF Item Charge	Incoming Wire Fee	Outgoing Wire Fee	Stop Payment Charge	Total Bank Charges
01/01/08 - 01/31/08	\$5,070.00						\$5,070.00
03/01/08 - 3/31/08	\$3,990.00	\$8.00	\$1,020.00	\$10.00	\$15.00	\$50.00	\$5,093.00
04/01/08 - 04/30/08	\$2,400.00	\$16.00	\$930.00	\$10.00			\$3,356.00
	\$11,460.00	\$24.00	\$1,950.00	\$20.00	\$15.00	\$50.00	\$13,519.00

APPENDIX C

Consignor	Sale Date	Date Proceeds Due	No. of Head	Amount Due Consignor	Check Date	Check No.	Check Amount	Date of Return Notice from Bank	Date Paid ^a	Days Late
Soldiers Mound Club Spur, TX	01/26/08	01/28/08	27	\$12,482.66	01/26/08	50499	\$12,482.66	03/20/08	03/28/08 ¹	60
Dorothy Dickerson Aspermont, TX	03/08/08	03/10/08	14	\$7,085.84	03/08/08	50928	\$7,085.84	03/20/08	03/31/08 ¹	21
H&M Cattle Co. Abilene, TX	03/15/08	03/17/08	34	\$20,765.97	03/15/08	50985	\$20,765.97	03/20/08	03/28/08 ¹	11
Mark McMillian Abilene, TX	03/15/08	03/17/08	22	\$8,632.96	03/15/08	51031	\$8,632.96	03/20/08	03/25/08	8
Steve Clark & Ted Wheeler Comanche, TX	03/01/08	03/03/08	9	\$4,377.21	03/01/08	50856	\$4,377.21	03/25/08	04/22/08 ¹	50
H-K Farms Brackettville, TX	03/08/08	03/10/08	6	\$2,857.45	03/08/08	50959	\$2,857.45	03/25/08	04/15/08	36
Jerry Macha Seymour, TX	03/15/08	03/17/08	2	\$710.20	03/15/08	51016	\$710.20	03/25/08	04/02/08	16
Darren Clark Rule, TX	03/15/08	03/17/08	5	\$2,421.99	03/15/08	51025	\$2,421.99	03/25/08	04/04/08	18
Carl Roeder Abilene, TX	03/15/08	03/17/08	4	\$1,847.75	03/15/08	51028	\$1,847.75	03/25/08	04/01/08	15
Jerry Dunnam Haskell, TX	03/22/08	03/24/08	1	\$542.34	03/22/08	51056	\$542.34	03/25/08	04/10/08	17
JB Glover Rochester, TX	03/22/08	03/24/08	3	\$1,875.48	03/22/08	51058	\$1,875.48	03/25/08	03/31/08	7
Rusty Peacock Throckmorton, TX	03/22/08	03/24/08	2	\$1,133.78	03/22/08	51059	\$1,133.78	03/25/08	03/28/08	4
Mickey Taylor Girard, TX	03/22/08	03/24/08	3	\$1,584.31	03/22/08	51061	\$1,584.31	03/25/08	03/28/08	4
Cane Cattle Co. Abilene, TX	03/22/08	03/24/08	18	\$6,742.19	03/22/08	51066	\$6,742.19	03/25/08	03/28/08	4
Steven Grand Haskell, TX	03/22/08	03/24/08	12	\$5,072.21	03/22/08	51067	\$5,072.21	03/25/08	04/10/08	17
Ron Fossum Abilene, TX	03/22/08	03/24/08	3	\$623.50	03/22/08	51072	\$623.50	03/25/08	03/28/08	4
Lynn Pace Haskell, TX	03/22/08	03/24/08	4	\$2,296.21	03/22/08	51075	\$2,296.21	03/25/08	03/28/08	4
Fouts Brothers Haskell, TX	03/22/08	03/24/08	5	\$1,704.41	03/22/08	51078	\$1,704.41	03/25/08	04/10/08	17
Jimmy Reed Roby, TX	03/22/08	03/24/08	6	\$2,866.17	03/22/08	51079	\$2,866.17	03/25/08	03/28/08	4

Elmer L. Adams Weinert, TX	03/22/08	03/24/08	13	\$6,227.74	03/22/08	51084	\$6,227.74	03/25/08	04/10/08	17
Cane Cattle Co. Cisco, TX	03/22/08	03/24/08	11	\$6,538.06	03/22/08	51089	\$6,538.06	03/25/08	03/28/08	4
Bill Cox Haskell, TX	03/22/08	03/24/08	13	\$7,843.85	03/22/08	51092	\$7,843.85	03/25/08	04/16/08 ²	23
Bill Cox Haskell, TX	03/22/08	03/24/08	23	\$14,519.47	03/22/08	52215	\$14,519.47	03/25/08	04/16/08 ²	23
Tony Manske Stamford, TX	03/22/08	03/24/08	9	\$3,948.17	03/22/08	51076	\$3,948.17	04/08/08	04/16/08 ¹	23
Flyn Simmons Aspermont, TX	03/29/08	03/31/08	10	\$3,881.88	03/29/08	52241	\$3,881.88	04/08/08	04/11/08	11
Refugio Gonzales Stamford, TX	03/29/08	03/31/08	1	\$416.24	03/29/08	52242	\$416.24	04/08/08	04/21/08	21
Jerry Macha Seymour, TX	03/29/08	03/31/08	2	\$869.04	03/29/08	52255	\$869.04	04/08/08	04/14/08 ¹	14
Brad Stuart Roby, TX	03/29/08	03/31/08	3	\$1,363.74	03/29/08	52257	\$1,363.74	04/08/08	04/15/08	15
J.C. Eaton Knox City, TX	03/29/08	03/31/08	2	\$1,138.05	03/29/08	52262	\$1,138.05	04/08/08	04/21/08	21
David Hudnell Rotan, TX	03/29/08	03/31/08	10	\$3,957.22	03/29/08	52263	\$3,957.22	04/08/08	04/11/08	11
Lyndell Dickerson Ashermont, TX	04/05/08	04/07/08	5	\$2,885.97	04/05/08	52289	\$2,885.97	04/08/08	04/11/08	4
Cane Cattle Co. Cisco, TX	04/05/08	04/07/08	4	\$2,451.26	04/05/08	52299	\$2,451.26	04/08/08	04/11/08	4
Danny Diggs Hamlin, TX	04/05/08	04/07/08	7	\$3,362.93	04/05/08	52306	\$3,362.93	04/08/08	04/11/08	4
R.A. Brown Ranch Throckmorton, TX	03/29/08	03/31/08	5	\$2,957.15	03/29/08	52228	\$2,957.15	04/09/08	04/15/08	15
Branch Cattle Co. Aspermont, TX	03/29/08	03/31/08	1	\$1,033.20	03/29/08	52231	\$1,033.20	04/09/08	04/14/08	14
Lance Nelson Hamlin, TX	03/29/08	03/31/08	2	\$1,064.25	03/29/08	52236	\$1,064.25	04/09/08	Unpaid	
Gary Tate Abilene, TX	04/05/08	04/07/08	3	\$1,173.47	04/05/08	52291	\$1,173.47	04/09/08	04/15/08	8
Jack Jones Old Glory, TX	04/05/08	04/07/08	8	\$3,535.53	04/05/08	52293	\$3,535.53	04/09/08	04/14/08	7
Lynn Brueggeman Haskell, TX	04/12/08	04/14/08	5	\$2,366.73	04/12/08	52333	\$2,366.73	04/17/08	04/29/08 ²	15
Gary Miller Rule, TX	04/19/08	04/21/08	1	\$540.64	04/19/08	52370	\$540.64	04/24/08	04/29/08	8
Jeff Teague Haskell, TX	04/19/08	04/21/08	2	\$960.97	04/19/08	52381	\$960.97	04/24/08	04/29/08	8

Doyle Robertson Aspermont, TX	04/12/08	04/14/08	5	\$2,148.46	04/12/08	52344	\$2,148.46	04/28/08	07/29/08 ³	106
C.L. Atkinson Dickens, TX	04/19/08	04/21/08	4	\$1,795.69	04/19/08	52378	\$1,795.69	05/06/08	07/29/08 ³	99
C.L. Atkinson Dickens, TX	04/26/08	04/28/08	4	\$1,409.04	04/26/08	52290	\$1,409.04	05/12/08	07/29/08 ³	92
Henry Dickerson Aspermont, TX	04/19/08	04/21/08	12	\$4,933.70	04/19/08	52374	\$4,933.70	05/12/08	07/29/08 ³	99
Bill Meador Aspermont, TX	04/12/08	04/14/08	12	\$6,347.54	04/12/08	52358	\$6,347.54	05/12/08	07/29/08 ³	106

▪ Represents date the check eventually cleared unless otherwise noted.

¹ Paid by wire transfer.

² Paid by new check.

³ Bond payout.

APPENDIX D

Consignor	Sale Date	Date Proceeds Due	No. of Head	Amount Due Consignor	Form of Payment	Date Paid	Days Late
Hollis Muehlstein Avoca, Texas	3/8/2008	3/10/2008	1	\$451.01	Bond Payout	7/29/2008	143
Gillespie Livestock Auction Fredericksburg, Texas	4/19/2008	4/21/2008	39	\$20,700.60 ¹	Bond Payout	7/29/2008	101
	4/26/2008	4/28/2008	38	\$20,883.30	Bond Payout	7/29/2008	94
Edgar Wayne Wells Haskell, Texas	5/3/2008	5/5/2008	1	\$1,045.35	Bond Payout	7/29/2008	87

¹ Payment for this transaction was originally due to B & R Farms, a trade name used by Respondent B.D. Rainey, but he assigned it over to Gillespie.