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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-12-0168  
)  
Michael Brent Wagner, )  
)  
Respondent ) COMPLAINT

There is reason to believe that the Respondent named herein has 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

1. Michael Brent Wagner (Respondent) is an individual. In order to protect the personal privacy of the Respondent, Complainant is not providing Respondent's address in this Complaint, but Complainant has provided the address to the Hearing Clerk so that service can be effected.
2. Respondent, at all times material herein, was:
  - a. Engaged in the business of buying livestock in commerce on a commission basis; and
  - b. Not registered, as required, as a market agency buying livestock in commerce on a commission basis, with the Secretary of Agriculture.

II

In a certified Notice of Default Letter dated April 26, 2010, and received by Respondent on May 4, 2010, Respondent was informed that the Packers and Stockyards Program had

information that he was buying and selling livestock in commerce and was therefore subject to the Act and the regulations. Respondent was further informed that in order to come into compliance with the Act and the regulations, he must complete and file an application for registration and obtain a condition 2 bond or bond equivalent. Respondent was informed that the amount of bond coverage must be based on the average amount of livestock purchased during a period equivalent to two business days, but in no case could the bond be less than \$10,000.00. Respondent was also informed that continuing to operate subject to the Act and the regulations without registering and/or filing the applicable bond or bond equivalent could result in a complaint being filed in a United States District Court or an administrative complaint being filed.

Notwithstanding such notice, Respondent continued to engage in the business of buying livestock in commerce on a commission basis without being registered as a market agency with the Secretary and without maintaining an adequate bond or bond equivalent as required by the Act and the regulations from July 2010 to October 2010, in violation of the Act and regulations, as set forth below:

| <b>Purchase Date</b> | <b>No. of Head</b> | <b>Livestock Amount</b> | <b>Purchased From</b>       | <b>Purchased For</b> | <b>Commission Amount</b> |
|----------------------|--------------------|-------------------------|-----------------------------|----------------------|--------------------------|
| 7/28/2010            | 12                 | \$6,568.75              | Lampasas Cattle Auction     | Scarmardo Cattle Co. | \$34.74                  |
| 8/2/2010             | 16                 | \$8,847.93              | Jordan Cattle Auction       | Scarmardo Cattle Co. | \$48.93                  |
| 8/16/2010            | 36                 | \$18,610.73             |                             |                      | \$109.50                 |
| 8/21/2010            | 49                 | \$22,703.45             | Comanche Livestock Exchange | Scarmardo Cattle Co. | \$120.15                 |
| 8/24/2010            | 24                 | \$12,617.40             | Meridian Livestock          | Scarmardo Cattle Co. | \$68.04                  |
| 8/31/2010            | 43                 | \$22,597.75             |                             |                      | \$129.60                 |
| 9/7/2010             | 35                 | \$16,931.08             |                             |                      | \$99.30                  |
| 9/14/2010            | 46                 | \$23,316.30             |                             |                      | \$135.48                 |
| 9/1/2010             | 78                 | \$50,076.85             | Lampasas Cattle Auction     | Owen Cattle Company  | \$236.21                 |
| 9/8/2010             | 3                  | \$1,815.40              |                             |                      | \$8.43                   |
| 9/15/2010            | 33                 | \$20,971.71             | Lampasas                    | Joe Paul             | \$130.41                 |

|            |    |             | Cattle Auction             | McCullough             |          |
|------------|----|-------------|----------------------------|------------------------|----------|
| 9/22/2010  | 16 | \$9,268.96  | Lampasas<br>Cattle Auction | Owen Cattle<br>Company | \$48.23  |
| 9/29/2010  | 12 | \$7,085.15  |                            |                        | \$36.33  |
| 10/6/2010  | 5  | \$2,977.40  |                            |                        | \$17.68  |
| 10/13/2010 | 32 | \$19,673.12 | Lampasas<br>Cattle Auction | Joe Paul<br>McCullough | \$129.24 |
| 10/20/2010 | 11 | \$5,267.25  | Lampasas<br>Cattle Auction | Larry<br>Alexander     | \$28.73  |

#### IV

By reason of the facts alleged in paragraphs II and III, Respondent has 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, 201.30).

WHEREFORE, it is hereby ordered that this Complaint shall be served upon Respondent for the purpose of determining whether the Respondent has willfully violated the Act. Respondent shall have twenty (20) days after receipt of this complaint in which to file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, 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.

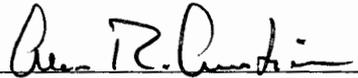
The Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), requests:

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 accord with the Rules of Practice governing proceedings under the Act; 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 regulations found to exist, requiring that Respondent not engage in operations subject to the Act unless or until he is bonded as required by 7 U.S.C. § 204 of the Act, and assessing such civil penalty, as authorized by the Act and warranted in the premises.

Done at Washington, D.C.

this 9 day of January, 2012



Alan R. Christian  
Deputy Administrator,  
Packers and Stockyards Program

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