

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:) P & S Docket No. **D 12-02-08**
)
 Hatch Auction, Inc.,)
 DBA Cow House Auction, and)
 Raymond L. Hatch,)
)
)
 Respondents.) Complaint

There is reason to believe that respondents named herein have willfully violated the provisions of 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." Therefore, this complaint is issued alleging the following:

I.

(a) Respondent, Hatch Auction, Inc., is a corporation organized under the laws of the State of New Mexico, with its principal place of business located at 4002 Highway 64, Kirtland, New Mexico 87417. Its mailing address is P.O. Box 1489, Fruitland, New Mexico 87416. The corporation's registered agent for service of process is: Raymond L. Hatch, P.O. Box 1489, Fruitland, New Mexico 87416.

(b) Respondent, Hatch Auction, Inc. also operates as Cow House Auction, which is located at 4002 Highway 64, Kirtland, New Mexico 87417.

(c) Respondent, Hatch Auction, Inc., under the direction, management, and control of Respondent Raymond L. Hatch, is, and at all times material herein was:

- (1) Engaged in the business of conducting and operating an auction market posted under and subject to the provisions of the Act;
 - (2) Engaged in the business of a market agency selling livestock in commerce on a commission basis; and
 - (3) Registered with the Secretary of Agriculture as a market agency selling livestock in commerce on a commission basis.
- (d) Respondent Raymond L. Hatch is an individual whose mailing address is P.O. Box 1489, Fruitland, New Mexico 87416.
- (e) Respondent Raymond L. Hatch is, and at all times material herein, was:
- (1) Co-owner of respondent Hatch Auction, Inc.; and
 - (2) Responsible for the day-to-day direction, management and control of respondent Hatch Auction, Inc. including the acts and practices referred to in this complaint.

II.

On dates specified in this paragraph respondents were provided with notice that they had failed to maintain and use properly their custodial account for shippers' proceeds, hereinafter referred to as "custodial account", thereby endangering the faithful and prompt accounting of shippers' proceeds and the payments due the owners and consignors of livestock.

(a) On March 26, 2009, respondents were advised by the Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration that as of November 30, 2008 respondents had operated with a shortage in their custodial

account in the amount of \$16,391.00 in violation of sections 307(a) and 312(a) of the Act (7 U.S.C. §§208 and 213) and section 201.42 of the regulations (9 C.F.R. § 201.42).

(b) On October 8, 2009, respondents were advised by the Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration that as of June 30, 2009 respondents had operated with a shortage in their custodial account in the amount of \$16,092.64 in violation of sections 307(a) and 312(a) of the Act (7 U.S.C. §§208 and 213 and section 201.42 of the regulations (9 C.F.R. § 201.42).

(c) On July 20, 2011, respondents were advised by the Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration that as of December 31, 2010 respondents had operated with a shortage in their custodial account in the amount of \$19,910.11 in violation of sections 307(a) and 312(a) of the Act (7 U.S.C. §§208 and 213) and section 201.42 of the regulations (9 C.F.R. § 201.42).

III.

During the period from November 30, 2008 through September 30, 2011, as specified in this paragraph and paragraph II above, respondents failed to maintain and use properly their custodial account, thereby endangering the faithful and prompt accounting of shippers' proceeds and the payments due the owners and consignors of livestock.

(a) As of December 31, 2009, Respondents had outstanding checks drawn on their custodial account in the amount of \$29,065.75, and had to offset such checks with a balance in the custodial account of \$971.50 and proceeds receivable of zero, resulting in a custodial account shortage in the amount of \$28,094.25.

(b) As of February 26, 2010, respondents had outstanding checks drawn on

their custodial account in the amount of \$25,811.56, and had to offset such checks with a balance in the custodial account of \$3,120.29 and proceeds receivable of \$203.00, resulting in a custodial account shortage in the amount of \$22,488.27.

(c) As of August 31, 2011, respondents had outstanding checks drawn on their custodial account in the amount of \$54,237.21, and had to offset such checks with a balance in the custodial account of \$7,149.28 and proceeds receivable of \$26,663.98, resulting in a custodial account shortage in the amount of \$20,423.95.

(d) As of September 30, 2011, respondents had outstanding checks drawn on their custodial account in the amount of \$38,404.64, and had to offset such checks with a balance in the custodial account of \$13,838.41 and proceeds receivable of \$423, resulting in a custodial account shortage in the amount of \$24,143.23.

(e) The shortages in respondents custodial account were due, in part, to respondents' failure to deposit into the account an amount equal to the proceeds receivable from the sale of consigned livestock within the time prescribe by section 201.42 of the regulations (9 C.F.R. 201.42).

IV.

Respondents, 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, respondents failed to keep and maintain all purchase and sale invoices, balance sheets, income statements, monthly reconciliations and documents permitting the tracing of all payments made for livestock purchases thus respondents failed to keep and maintain records that fully and correctly disclosed all transactions involved in their business as a market agency.

V.

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

By reason of the facts alleged in paragraph IV, respondents and have willfully violated section 401 of the Act (7 U.S.C. § 221).

WHEREFORE, it is hereby ordered that this complaint shall be served upon the respondents for the purpose of determining whether respondents have willfully violated the Act and 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, 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 Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration 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, suspending respondents as registrants under the Act for a reasonable specified period and thereafter until such time as the violations of the custodial account regulations have been corrected and such other and further relief as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 26 day of January, 2012



Alan R. Christian
Deputy Administrator
Packers and Stockyards Program

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