

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:

David Mosner, Inc.

Respondent

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P & S Docket No. D-12-

0240

Complaint and Notice of Hearing

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.*), (Act), and therefore, this Complaint and Notice of Hearing is issued alleging the following:

I

(a) David Mosner, Inc., herein referred to as Respondent, is a corporation organized and existing under the laws of the State of New York. Respondent's business mailing address is E-8 Hunts Point Cooperative Market, Bronx, New York 10474.

(b) The Respondent, at all times material herein, was:

1. Engaged in the business of buying livestock in commerce for the purposes of slaughter and manufacturing or preparing meats or meat products for sale or shipment in commerce; and
2. Operating as a packer within the meaning of and subject to the provisions of the Act.

II

On or about the dates and in the transactions set forth in Appendix A, Respondent purchased livestock and failed to pay, when due, the full purchase price of such livestock.

III

On or about the dates and in the transactions set forth below, Respondent removed the kidneys and kidney fat from veal calf carcasses before weighment without informing the sellers of said removal in violation of section 201.99(a) of the Regulations which requires that a description of the carcass trim be disclosed to the sellers before the calves are weighed (9 C.F.R. § 201.99(a)):

Purchase Date	Number of Head	Seller	Credit
10-Jul-09	89	Leo Aerts	none
29-Jul-09	112	Tom Green	none
6-Aug-09	112	Tom Green	none
20-Aug-09	110	Pat Kilsdonk	none
27-Aug-09	110	Pat Kilsdonk	none
3-Sep-09	100	Pat Kilsdonk	5 pounds per calf at \$1.80 = \$900.00
10-Sep-09	160	Ken Gonnering	8 pounds per calf at \$1.90 = \$2,416.80

IV

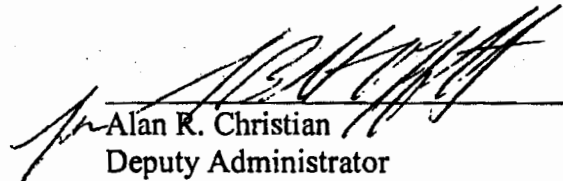
By reason of the facts alleged in paragraphs II and III herein, Respondent has willfully violated sections 202(a) and 409 of the Act (7 U.S.C. §§192(a) and 228b), as well as section 201.99(a) of the Regulations (9 C.F.R. § 201.99(a)).

WHEREFORE, it is hereby ordered that for the purpose of determining whether Respondent has in fact willfully violated the Act, this Complaint and Notice of Hearing shall be served upon Respondent. Respondent shall have twenty (20) days after receipt

of this Complaint and Notice of Hearing 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.). Failure to file an answer shall constitute an admission of all the material allegations of this Complaint and Notice of Hearing.

Respondent is hereby notified that unless hearing is waived, either expressly or by failure to answer and request a hearing, a hearing will be held in accordance with the Rules of Practice, at a place and time to be designated later. At the hearing, Respondent will have the right to appear and show cause why an appropriate Order should not be issued in accordance with the provisions of the Act which requires that Respondent cease and desist from violating the Act with respect to matters alleged herein and assesses such civil penalties as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.
this 17th day of February, 2012


Alan R. Christian
Deputy Administrator
Packers and Stockyards Program

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