

2012 FEB 15 3:15

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	P & S Docket No. D-12-0250
Thomas Kinderknecht,	)	
Barbara Kinderknecht,	)	
and Quinter Livestock, Inc.,	)	
	)	
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.; herein referred to as the Act), and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.; herein referred to as the Regulations), and, therefore, this complaint is issued alleging the following:

I.

(a) Quinter Livestock, Inc. is a "for profit" corporation organized and existing under the laws of the State of Kansas. The business mailing address is: 5821 County Road CC, Park, KS 67751. Thomas Kinderknecht and Barbara Kinderknecht are each 50% co-owners of Quinter Livestock, Inc. Taken together, Quinter Livestock, Inc., Thomas Kinderknecht and Barbara Kinderknecht are herein referred to as respondents.

(b) At all times material herein, Respondents were:

(1) Engaged in the business of a market agency selling livestock 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) Respondent Thomas Kinderknecht is, and at all times material herein, was:

(1) President and 50% co-owner of Respondent Quinter Livestock, Inc.;

and

(2) Responsible, jointly with Respondent Barbara Kinderknecht, for the day-to-day management, direction, and control of Respondent Quinter Livestock, Inc.

(d) Respondent Barbara Kinderknecht is, and at all times material herein, was:

(1) Secretary and Treasurer and 50% co-owner of Respondent Quinter Livestock, Inc.; and

(2) Responsible, jointly with Respondent Thomas Kinderknecht, for the day-to-day management, direction, and control of Respondent Quinter Livestock, Inc.

## II.

On or about October 5, 2009, the Western Regional Office mailed a Notice of Violation to Respondents, via certified receipt, noting that a custodial account analysis disclosed that Respondents had failed to maintain and properly use their custodial account in contravention of the Act and regulations.<sup>1</sup> Specifically, Respondents were notified that their custodial account had been improperly maintained because Respondents were operating with a shortage in their custodial account in violation of 9 C.F.R. § 201.42(c), section 307(a) (7 U.S.C. § 208), and 312(a) (7 U.S.C. § 213) of the Packers and Stockyards Act. .

Respondents were notified of the provisions of section 201.42(c) of the Regulations (9 C.F.R. § 201.42(c)) and further informed that failure to take immediate steps to correct the

---

<sup>1</sup> United States Postal Service Domestic Return Receipt for Article Number 7108 2133 3936 1515 8949 was signed and received on October 8, 2009.

violations and bring their operations into compliance with the Act could result in administrative action.

### III.

Respondents, during the period of May 6, 2010 through June 11, 2010, failed to properly maintain their custodial account, thereby endangering the faithful and prompt accounting of shippers' proceeds and the payment due the owners or consignors of livestock in that:

- (1) As of May 6, 2010, Respondents had outstanding checks drawn on the custodial account in the amount of \$60,335.77 and had to offset such checks a balance in the custodial account in the amount of \$35,729.76 and proceeds receivable of \$23,886.44, resulting in a deficiency of \$1,952.57.
- (2) As of June 11, 2010, Respondents had outstanding checks drawn on the custodial account in the amount of \$78,720.11 and had, to offset such checks, a balance in the custodial account in the amount of \$72,537.59, resulting in a deficiency of \$6,182.52.

The shortages in Respondents' custodial account were due to Respondents' failure to deposit into its custodial accounts, within the time prescribed by section 201.42 of the Regulations (9 C.F.R. § 201.42), an amount equal to the proceeds receivable from the sale of consigned livestock and to the withdrawal of bank charges from their custodial account.

### IV.

By reason of the facts alleged in paragraph I, Respondents Thomas Kinderknecht and Barbara Kinderknecht are the alter ego of Respondent Quinter Livestock, Inc.

By reason of the facts alleged in paragraphs II and 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).

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, S.W., Washington, D.C. 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.; hereinafter "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 found to exist, suspending Respondents as registrants under the Act, and assessing such civil penalties against Respondents, jointly and severally, as are authorized by the Act and warranted in the circumstances.

Done at Washington, D.C.

this 22 day of February, 2012



Alan R. Christian  
Deputy Administrator  
Packers and Stockyards Program

Brian Sylvester, Esq.  
Attorney for Complainant  
Office of the General Counsel  
Marketing, Regulatory and Food Safety Division  
United States Department of Agriculture  
Washington, D.C. 20250-1413