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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	P & S Docket No. 12- 0546
)	
Plainville Livestock Commission, Inc.,)	
)	
and)	
)	
Tyler Gillum,)	
)	
Respondents)	Complaint

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

I

- (a) Respondent Plainville Livestock Commission, Inc. is a corporation organized under the laws of the State of Kansas, with a mailing address of P.O. Box 356, Plainville, KS 67663.
- (b) Respondent Tyler Gillum is an individual whose business mailing address is P.O. Box 356, Plainville, KS 67663.

(c) Respondent Plainville Livestock Commission, Inc. under the direction, management, and control of respondent Tyler Gillum, at all times material herein was:

(1) Engaged in the business of conducting and operating Plainville Livestock Commission Inc., a stockyard posted under and subject to the provisions of the Act;

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

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

(d) Respondent Tyler Gillum at all times material herein was:

(1) President of respondent Plainville Livestock Commission, Inc.;

(2) Owner of 100% of the stock issued by respondent Plainville Livestock Commission, Inc.; and

(3) Responsible for the direction, management and control of respondent Plainville Livestock Commission, Inc.

II

On October 23, 2009, the Grain Inspection, Packers and Stockyards Administration (GIPSA) sent respondents a Notice of Violation (NOV) by certified mail. The NOV was claimed and signed for on October 26, 2009. The NOV

informed respondents that a GIPSA review of respondents' records indicated that respondents failed to properly maintain their custodial account. The NOV specified that respondents' custodial account as reconciled on June 30, 2009, had a shortage of \$2,412.14. The NOV further stated that respondents were required to correct the shortage immediately. The NOV informed respondents that operating with a custodial account shortage is a violation of sections 307(a) and 312(a) of the Act (7 U.S.C. §§ 208(a), 213(a)) and section 201.42 of the regulations (9 C.F.R. § 201.42) and that failure to comply with the Act and regulations would result in appropriate disciplinary action.

III

On March 15, 2011, respondents entered into a Civil Penalty Stipulation Agreement (Agreement) with GIPSA. The Agreement resolved GIPSA's allegations that respondents had custodial account shortages of: \$189,251.48 on February 28, 2010; \$241,541.98 on March 31, 2010; and \$262,471.44 on May 3, 2010. The Agreement informed respondents that their custodial account shortages and misuse of custodial funds was in violation of section 307 (a) of the Act (7 U.S.C. § 208(a)) and section 201.42 of the regulations (9 C.F.R. § 201.42). The Agreement assessed respondents a civil penalty of \$3,000.

IV

Respondents, notwithstanding the facts alleged in paragraphs II and III, failed to maintain and use properly their custodial account for shipper's proceeds, thereby endangering the faithful and prompt accounting therefor and payment of the portions thereof due the owners, consignors, and shippers of livestock, in that:

(a) As of May 31, 2011, respondents had outstanding checks in the amount of \$933,008.23 drawn on their custodial account, and had, to offset these checks, a negative custodial account bank balance in the amount of \$78,503.54, deposits in transit of \$332,139.13, and current proceeds receivable in the amount of \$356,801.49, resulting in a custodial account shortage of \$322,571.15.

(b) As of August 5, 2011, respondents had outstanding checks in the amount of \$86,347.52 drawn on their custodial account, and had, to offset these checks, and a negative custodial account bank balance of \$61,933.72, no deposits in transit and no current proceeds receivable resulting in a custodial account shortage of \$148,281.24.

(c) During the period beginning approximately June 1, 2011, through August 31, 2011, respondents permitted approximately \$3,662 in bank fees to be charged to their custodial account.

(d) The custodial account shortages described herein were due in part to respondents' failure to deposit in the custodial account, within the time prescribed by the regulations, an amount equal to the proceeds receivable for sales of

consigned livestock, and due in part to respondents' misuse of shippers' funds in the custodial account to pay bank fees.

V

Respondents failed to keep and maintain accounts, records and memoranda that fully and correctly disclosed all transactions involved in their business, in that they failed to keep and maintain copies of balance sheets for their custodial account, copies of account reconciliations for their general account, copies of account reconciliations for their custodial account, livestock inventory records and accounts receivable records.

VI

By reason of the facts alleged in paragraphs II, III and IV of this Complaint, respondents have 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 V, respondents 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.

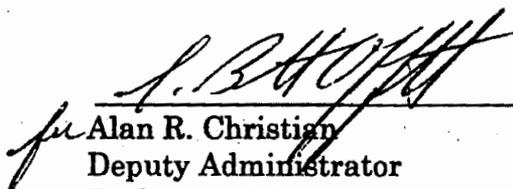
The Grain Inspection, Packers and Stockyards Administration requests:

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, requiring respondents to keep and maintain all accounts, records, and memoranda that fully and accurately disclose all transactions involved in their business, suspending Respondent Plainville Livestock Commission, Inc. as a registrant under the Act for a specified period of time, prohibiting Respondent Gillum from being registered and engaging in any activities for which registration is required under the Act for a specified period of time, and assessing such civil penalties against

respondents as are authorized by the Act and warranted under the
circumstances.

Done at Washington, D.C.

this 26th day of July, 2012


for Alan R. Christian
Deputy Administrator
Packers and Stockyards Program

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