

3 59

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P&S Docket No. D-12-0584)
)
Martin D. Yoder, d.b.a.)
Martin D. Yoder Livestock, Ltd.)
)
Respondent) Complaint

There is reason to believe that respondent has willfully violated the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. §§ 181-229) (Act) and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. §§ 201.1-.200) (regulations), and therefore this complaint is issued alleging:

I.

(a) Martin D. Yoder, (Respondent) is an individual, whose business address is P.O. Box 205, Kidron, OH, 44636.

(b) Respondent, at all times material to this complaint, is:

(1) Engaged in the business of a dealer, buying and selling livestock in commerce for his own account;

(2) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock for his own account.

II.

(a) From the period of July 2009 to September 2009, in approximately 72 transactions, Respondent purchased in commerce approximately 1,700 head of livestock valued in excess of \$690,000 and failed to make full payment promptly to 16 livestock sellers in that Respondent paid the balance due between one and 23

days late for livestock

(b) From the period of August to September 2011, in approximately 33 transactions, Respondent purchased in commerce approximately 1,600 head of livestock valued in excess of \$1,100,000 and failed to make full payment promptly to five livestock sellers in that Respondent mailed full payment between two and 15 days late.

III.

(a) During August 2009, Respondent sold livestock on a commission basis on behalf of three livestock sellers, and, in 12 of those transactions, he deceptively misrepresented to those sellers the grade and yield price from the purchaser and took an undisclosed profit above his commission from his sale of the livestock.

IV

(a) By reason of the facts alleged in paragraph II, Respondent has willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a), 228b) and section 201.43 of the Regulations.

(b) By reason of the facts alleged in paragraph III, Respondent has committed an unfair and deceptive practice in violation of section 312(a) of the Act (7 U.S.C. § 213(a).)

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

Packers and Stockyards Program, 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 accordance with the Rules of Practice; and
2. That such order or orders be issued, including an order requiring Respondent to cease and desist from the violations of the Act found to exist, suspending Respondent as a registrant under the Act, and assessing such penalties as are authorized by the Act and warranted in the premises.

Done at Washington, D.C.

this 7 day of August, 2012

 for A.P.C.

Alan R. Christian
Deputy Administrator,
Packers and Stockyards Program

JONATHAN D. GORDY
Attorney for Complainant
Office of the General Counsel
United States Department of Agriculture
Trade Practices Division

1400 Independence Avenue, S.W.
Room 2004, South Building
Washington, D.C. 20250
Telephone: (202) 720-5065