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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
) P&S Docket No. D-13-0060
) Monte Clark)
))
))
Respondent) Complaint

There is reason to believe that the respondent named herein has willfully violated the Packers & 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 Monte Clark is an individual. In order to protect the personal privacy of the Respondent, Complainant is not providing Respondent's address in this Complaint, but Complainant has provided the address to the Hearing Clerk so that service can be effected.
- (b) Respondent Monte Clark was at all times material herein engaged in the business of a dealer buying and selling livestock in commerce.
- (c) Respondent was registered with the Secretary of Agriculture as a dealer buying and selling livestock in commerce from January 11, 2005, to September 9, 2010, when his registration to operate as a livestock dealer expired due to his failure to file a corrected 2009 Annual Report that reflected the addition of clearing services to his registration.

II.

On September 20, 2006, GIPSA, sent a certified letter of notice to the respondent. The letter informed respondent that GIPSA had information indicating that the respondent had engaged in livestock transactions where he failed to pay for livestock by the close of the next business day. The letter referenced sections 312(a) and 409 of the Act (7 U.S.C. §§ 213 and 228(b)) and section 201.43 of the regulations promulgated thereunder (9 C.F.R. § 201.43), and notified the respondent of his obligation to correct his business practices. The letter also stated that failure to comply with the Act may result in appropriate disciplinary action.

On August 27, 2009, GIPSA sent a Notice of Violation ("NOV") via certified mail to the respondent. The NOV was claimed and signed for on September 17, 2009. The NOV informed respondent that GIPSA had information indicating that the respondent had engaged in livestock transactions where he failed to pay for livestock purchased at Southern Colorado Livestock Auction Fowler, LLC in Fowler, Colorado before the close of the next business day. The letter referenced section 409 of the Act (7 U.S.C. § 228(b)). The letter also stated that failure to comply with the Act may result in an administrative complaint filed against him.

III.

Respondent, commencing on April 12, 2010, and continuing through December 15, 2010, in eight (8) transactions, purchased livestock in the amount of \$13,141.81 and failed to pay, when due, the full amount of the purchase prices within the time period required by the Act. Respondent's payments were made between 1 and 7 days late. Respondent purchased the livestock from the following sellers: (1) Calhan Auction Market, Inc.; (2) Producers Livestock Marketing Association; and (3) Centennial Livestock Auction, Inc.

IV.

By reason of the facts alleged in paragraph III, the respondent willfully violated section 312(a) and 409 of the Act (7 U.S.C. §§ 213(a) and 228b) and section 201.43 of the regulations (9 C.F.R. § 201.43).

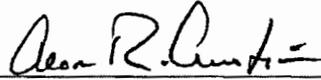
WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and regulations issued thereunder, this complaint shall be served upon the respondent. The respondent shall have twenty (20) days following receipt of this complaint to file an answer with the Hearing Clerk, Room 1031 - South Building, United States Department of Agriculture, 1400 Independence Ave., S.W., Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing the 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 in this complaint and a waiver of hearing.

The Grain Inspection, Packers and Stockyards Administration, Packers and Stockyards Program, requests:

- (1) That unless the respondent 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 an order be issued requiring the respondent to cease and desist from the violations of the Act and the regulations found to exist and assessing civil penalties against the respondent in accordance with the Act and as warranted by the facts and circumstances of this case.

Done at Washington, D.C.

this 31 day of October, 2012



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