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OCT 10 2013

UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re:)	P&S Docket No. 13- 0170
)	
)	
Keith Robertson)	
Charlene Robertson)	
)	
and)	
)	
Farmington Livestock, LLC)	
)	
)	
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.*) (Act), and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 *et seq.*) (regulations), and, therefore, this complaint is issued alleging the following:

I

(a) Farmington Livestock, LLC, is a limited liability company organized under the laws of the State of Missouri, with a mailing address of P. O. Box 471, Bourbon, Missouri 65441.

(b) Respondent Farmington, under the direction, management, and control of Respondents Keith Robertson and Charlene Robertson, is, and at all times material herein was:

- (1) Engaged in the business of conducting and operating Farmington Livestock, LLC, as a stockyard posted under and subject to the provisions of the Act;
- (2) Engaged in the business of a market agency selling livestock in commerce on a commission basis; and

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

(c) Keith Robertson is an individual whose business mailing address is of P. O. Box 471, Bourbon, Missouri 65441.

(d) At all times material herein, Respondent Keith Robertson was:

- (1) President of Respondent Farmington Livestock;
- (2) One of two members of Respondent Farmington Livestock;
- (3) Owner of 50% of Respondent Farmington Livestock;
- (4) Registered Agent of Respondent Farmington Livestock;
- (5) Responsible for the direction, management and control of Respondent Farmington Livestock;
- (6) Engaged in the business of conducting and operating Respondent Farmington Livestock, a stockyard posted under and subject to the provisions of the Act; and
- (7) Engaged in the business as a market agency selling livestock in commerce on

a commission basis.

(e) Charlene Robertson is an individual whose business mailing address is of P. O. Box 471, Bourbon, Missouri 65441.

(f) At all times material herein, Respondent Charlene Robertson was:

- (1) Vice President of Respondent Farmington Livestock;
- (2) One of two members of Respondent Farmington Livestock;
- (3) Owner of 50% of Respondent Farmington Livestock;
- (4) Responsible for the direction, management and control of Respondent Farmington Livestock;

- (5) Engaged in the business of conducting and operating Respondent Farmington Livestock, a stockyard posted under and subject to the provisions of the Act; and
- (6) Engaged in the business as a market agency selling livestock in commerce on a commission basis.

II

(a) On October 17, 2007, the Grain Inspection, Packers and Stockyards Administration (GIPSA) sent a letter via certified mail to respondents. The letter informed respondents that the Status of Custodial Account for Shippers' Proceeds Special Report submitted by respondents for the period ending August 31, 2007 showed a shortage in their custodial account of \$207,876.00. Respondents were required to file form P&SP-3700, Status of Custodial Bank Account for Shippers' Proceeds, within 30 days.

(b) GIPSA sent a Notice of Violation (NOV) dated September 8, 2008 via certified mail to Respondents. The NOV informed the respondents, among other things, that respondents had a shortage in its custodial account for shippers' proceeds (custodial account) in the amount of \$226,520.07 for the period ending July 31, 2008. The NOV further informed the respondents that operating with a custodial account shortage is a violation of section 312(a) of the Act (7U.S.C. §§ 208, 213(a)) and that failure to comply with the Act and the regulations would result in appropriate disciplinary action.

(c) GIPSA sent a Notice of Violation (NOV) dated February 3, 2011 via certified mail to Respondents. The NOV was delivered on or about February 7, 2011. The NOV informed the respondents, among other things, that respondents had a shortage in its custodial account in the amount of \$3,001.09 for the period ending December 31, 2009. The NOV further informed the respondents that operating with a custodial account shortage is a violation of section 312(a) of

the Act (7 U.S.C. §§ 208, 213(a)) and that failure to comply with the Act and the regulations would result in appropriate disciplinary action.

(d) GIPSA sent a Notice of Violation (NOV) dated September 29, 2011 via certified mail to Respondents. The NOV was delivered on or about October 3, 2011. The NOV informed the respondents, among other things, that respondents had a shortage in its custodial account in the amount of \$21,950.19 for the period ending December 31, 2010. The NOV further informed the respondents that operating with a custodial account shortage is a violation of section 312(a) of the Act (7 U.S.C. §§ 208, 213(a)) and that failure to comply with the Act and the regulations would result in appropriate disciplinary action.

III

Respondents, on February 29, 2012, and again on March 31, 2012, failed to properly maintain and use their custodial account, thereby endangering the faithful and prompt accounting of shippers' proceeds and the payments due the owners or consignors of livestock in that:

(a) As of February 29, 2012, respondents had outstanding checks drawn on their custodial account in the amount of \$1,522,486.77, and had, to offset such checks, a bank balance in the custodial account in the amount of \$21,594.43, a certificate of deposit designated as custodial funds in the amount of \$307.63, deposits in transit in the amount of \$125,901.30 and current proceeds receivable in the amount of \$1,011,288.47, resulting in a custodial account shortage of \$363,394.94.

(b) As of March 31, 2012, respondents had outstanding checks drawn on their custodial account in the amount of \$1,165,746.74, and had, to offset such checks, a negative bank balance in the custodial account in the amount of \$755.50, a certificate of deposit designated as custodial

funds in the amount of \$556.38 and current proceeds receivable in the amount of \$854,682.83, with no deposits in transit, resulting in a custodial account shortage in the amount of \$311,263.03.

(c) The custodial account shortages described herein were due in part to respondents' failure to deposit in the custodial account, 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 fees/charges from their custodial account.

IV

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

WHEREFORE, it is hereby ordered that this complaint shall be served upon the respondents for the purpose of determining whether the 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, SW, Washington, DC 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.

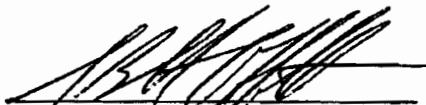
The Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration requests:

1. That unless the 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 the 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 the respondents, jointly and severally, as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 29th day of January, 2013


S. Brett Offutt
Acting Deputy Administrator
Packers and Stockyards Program

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