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UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) P&S Docket No. 13- 0701  
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)  
Paul Day )  
)  
)  
Respondent ) Complaint and Notice of Hearing

There is reason to believe that the respondent named herein has 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) Paul Day, referred to herein as the respondent, is an individual. The respondent's mailing address will not be provided in the complaint to protect the privacy of Mr. Day, but will be provided to the Hearing Clerk's Office, United States Department of Agriculture, for the purpose of service of this complaint.

(b) The respondent is, and at all times material herein was engaged in the business of a dealer buying and selling livestock in commerce and a market agency buying and/or selling livestock on a commission basis in commerce.

II

On August 4, 2010, the Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA) hand delivered to the respondent a Notice of Default (NOD). The NOD notified the respondent of his obligation to file an application for registration and to secure a bond or bond equivalent if he wished to engage in the business of buying and

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selling livestock in interstate commerce. The NOD also informed the respondent that engaging in business in any capacity that is subject to the Act without being properly registered with GIPSA and without filing a bond or bond equivalent is a violation of the Act and regulations and could subject the respondent to disciplinary action.

### III

During the period from October 3, 2011, through November 1, 2011, and again from February 1, 2012, through March 7, 2012, in approximately 15 transactions involving the purchase of a total of 746 head of livestock (1) from the following posted stockyards: Gonzales Livestock Market, Inc., in Gonzales, Texas; Union Commission Co., Inc., in Hondo, Texas; and (2) from M&M Southwestern Livestock, in Dodge City, Kansas for a total purchase price of \$431,974.46, and a commission of \$9,030.15, the respondent engaged in the business of a dealer buying and selling livestock in commerce and as market agency buying and/or selling livestock in commerce on a commission basis without being registered with the Secretary and without maintaining an adequate bond or bond equivalent.

### IV

On November 16, 2011, in a transaction involving the purchase of 9 head of livestock from Hills Prairie Livestock Auction Co., in Bastrop, Texas for a total purchase price of \$3,220.42, and on November 18, 2011, in a transaction involving the sale of 8 head of livestock to H & B Packing Co., Inc., in Waco, Texas for a total sell price of \$2,703.77, the respondent engaged in the business of a dealer buying and/or selling livestock in commerce, either on his own account or as an agent of the vendor or purchaser without maintaining an adequate bond or bond equivalent.

V

On November 16, 2011, the respondent purchased livestock in the amount of approximately \$15,112.95 from Hills Prairie Livestock Auction Co., in Bastrop, Texas, and failed to pay, when due, the full amount of the purchase price within the time period required by the Act. As of February 14, 2013, the amount of \$4,744.64 of the \$15,112.95 remains unpaid.

VI

By reason of the facts alleged in paragraphs II, III, and IV, the respondent has willfully violated section 312(a) of the Act (7 U.S.C. § 213(a)) and sections 201.29 and 201.30 of the regulations (9 C.F.R. §§ 201.29 and 201.30).

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

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 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 the respondent to cease and desist from the violations of the Act and the regulations found to exist, suspending the respondent as a registrant under the Act for a specified period of time, requiring that the respondent not engage in operations subject to the Act unless or until he is adequately bonded as required by 7 U.S.C. §204 of the Act, and assessing such civil penalties against the respondent as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 28<sup>th</sup> day of March, 2013

Susan B. Keith

Susan B. Keith  
Deputy Administrator  
Packers and Stockyards Program

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