

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:

Bryan Spivey,

Respondent

)
)
)
)
)
)

P & S Docket No. D-13-

0227

Complaint

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

(b) Respondent is, and at all times material herein was:

- (1) Engaged in the business of a packer buyer; and
- (2) Registered with the Secretary of Agriculture as a packer buyer; and
- (3) Engaged in the business of a dealer buying and selling livestock in commerce;
and
- (4) Not registered or bonded with the Secretary of Agriculture as a dealer to buy
and sell livestock in commerce.

II

Respondent was advised by the Western Regional Office, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA) in a Notice of Violation letter (NOV) dated August 30, 2011, that the respondent had failed to pay for livestock in a timely manner in violation of section 409 of the Act (7 U.S.C. § 228b). The NOV was delivered to respondent's address on September 1, 2011.

III

Notwithstanding the NOV, respondent, on or about October 18, 2011, and continuing through February 17, 2012, in approximately 18 transactions, purchased livestock in the amount of approximately \$123,425.11 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 approximately 1 and 20 days late. Respondent purchased the livestock from Four County Auction Center in Industry, Texas and Dublin Livestock Auction, LLC in Dublin, Texas.

IV

Respondent, in the transactions described in paragraph III, engaged in the business of a dealer buying and selling livestock in commerce without maintaining an adequate bond or bond equivalent.

V

By reason of the facts alleged in paragraph III, respondent willfully violated sections 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).

By reason of the facts alleged in paragraph IV, respondent 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).

WHEREFORE, it is hereby ordered that this complaint shall be served upon respondent for the purpose of determining whether respondent has violated the Act and regulations. Respondent 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 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 and the regulations found to exist, prohibiting respondent from being registered as a dealer and engaging in business as a dealer for a specified period of time, and assessing such civil penalties against respondent as are

authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 24th day of April, 2013

Susan B. Keith
Susan B. Keith
Deputy Administrator
Packers and Stockyards Program

Lauren C. Axley
Attorney for the Complainant
Office of the General Counsel—Regulatory Division
Room 2319, South Building
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, D.C. 20250-1400
Telephone: (202) 720-5143