

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:)
)
Larry K. Smeal, Jr.)
)
)
)
Respondent) Complaint

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) Larry K. Smeal, Jr. is an individual whose business mailing address is 890 US Highway 98 W, Frostproof, Florida 33843.
- (b) At all times material herein Larry K. Smeal Jr. has engaged in the business of a dealer buying or selling livestock in commerce and a market agency buying or selling livestock on a commission basis in commerce under his own name; as a sole proprietorship doing business under the name of Central Florida Calf Farm, Inc; and under the fictitious name Smeal Trucking.
- (c) Central Florida Calf Farm, Inc., a corporation organized under the laws of the State of Florida, with a business mailing address of 860 US Highway 98 West, Frostproof, Florida 33843, was dissolved as of September 14, 2007.
- (d) Central Florida Calf Farm, Inc. was under the direction, management, and control of Larry K. Smeal, Jr.

(e) Smeal Trucking, organized under the laws of the State of Florida on January 28, 2010, has a mailing address of 860 US Highway 98 West, Frostproof, Florida 33843.

(f) Smeal Trucking is, and was, at all times material herein, under the direction, management and control of Larry K. Smeal, Jr.

II

(a) By letter dated December 8, 2005, the Grain Inspection, Packers and Stockyards Administration (GIPSA) 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 selling livestock in interstate commerce. The letter 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.

(b) On January 30, 2006, the Grain Inspection, Packers and Stockyards Administration (GIPSA) sent a letter via certified mail to respondent. The letter notified Respondent Larry K. Smeal for the second time 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 selling livestock in interstate commerce. The letter also informed Respondent Larry K. Smeal 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 him to disciplinary action. Respondent Larry K. Smeal on February 1, 2006 refused to accept the certified letter.

(c) GIPSA sent a Notice of Default Registration/Bonding (NOD) dated June 11, 2010, via certified mail to Respondent Larry K. Smeal. The NOD was delivered on June 16, 2010. The NOD notified Respondent Larry K. Smeal 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 selling livestock in interstate commerce. The letter also informed him 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 him to disciplinary action. On June 24, 2010, Respondent Larry K. Smeal, Jr. responded by sending a letter via Facsimile to GIPSA stating that he was no longer buying cattle on a commission basis.

III

During the period from March 5, 2012, through April 17, 2012, in approximately 14 transactions involving the purchase of a total of 271 head of livestock (1) from the following posted stockyards: Hillard-McKettrick Investments, Inc. dba Arcadia Stockyard, Arcadia, Florida; and (2) from Cattlemen's Livestock Auction Market, Inc. of Lakeland, Florida for a total purchase price of \$209,874.30, and a commission of \$1,370.47, the respondent engaged in the business of a dealer buying or selling livestock in commerce and as market agency buying 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

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

WHEREFORE, it is hereby ordered that this complaint shall be served upon the respondent for the purpose of determining whether the respondent has willfully violated the Act and the 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, 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.

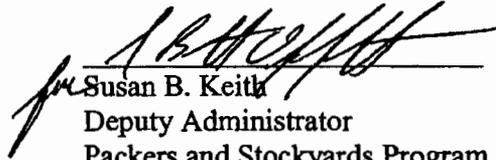
The Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration requests:

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 15th day of May, 2013


Susan B. Keith
Deputy Administrator
Packers and Stockyards Program

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